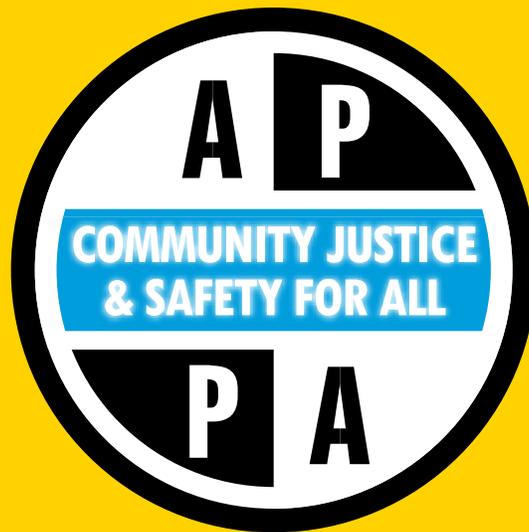


**COMMUNITY
CORRECTIONS RESPONSE
TO DOMESTIC VIOLENCE:**

G U I D E L I N E S F O R P R A C T I C E

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AMERICAN PROBATION AND PAROLE ASSOCIATION

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Table of Contents

FOREWORD.....	i
Summary of Community Corrections’ Response to Domestic Violence: Guidelines for Practice.....	iii
CHAPTER ONE: What Difference Does It Make?.....	1
Missed Opportunities for Justice System Intervention: The Story of Kristin Lardner.....	2
Community Corrections’ Challenging Cases.....	5
Lane County, Oregon: Implementing Domestic Violence Supervision.....	10
CHAPTER TWO: Domestic Violence: Fundamentals for Community Corrections Practice.....	14
Types of Domestic Violence.....	15
Causes of Domestic Violence.....	16
Domestic Violence Perpetrators.....	19
Domestic Violence Victims.....	20
Justice System Responses to Domestic Violence.....	22
CHAPTER THREE Legal Issues in the Supervision of Domestic Violence Offenders.....	26
Legal Definitions of Domestic Violence.....	27
Jurisdictional Issues.....	27
Civil Protection Orders.....	30
Federal and State Firearms Laws.....	32
Conditions of Probation and Pretrial Release.....	34
Enforcement and Revocation.....	35
Confidentiality.....	37
Special Issues.....	41
CHAPTER FOUR: Culture and Domestic Violence.....	44
Culture.....	44
The Intersection of Culture and Domestic Violence.....	45
Cultural Sensitivity.....	49
CHAPTER FIVE: Core Goals for Implementing the Guidelines.....	52
Goals.....	52
Autonomy and Empowerment.....	53
Practice Principles.....	54
Inadvisable Practices For Domestic Violence Case Supervision.....	57
CHAPTER SIX: Guidelines for Professionalism and Ethical Practice.....	60
CHAPTER SEVEN: Guidelines for Case Investigation.....	80
CHAPTER EIGHT: Guidelines for Community Supervision and Enforcement.....	112
CHAPTER NINE: Guidelines for Victim Safety and Autonomy.....	156
CHAPTER TEN: Guidelines for Batterer Intervention Programs.....	182

Exhibits

- Exhibit 1-A Comparison of Stranger Violence and Domestic Violence 9
- Exhibit 2-A Power and Control Wheel17
- Exhibit 2-B Equality Wheel18
- Exhibit 3-A Checklist of Legal Issues.....38
- Exhibit 4-A Examples of the Intersection of Culture and Domestic Violence48
- Exhibit 4-B Levels of Cultural Competence.....50
- Exhibit 5-A Ways to Promote Victim Safety and Autonomy.....53
- Exhibit 5-B Evidence-Based Practices for Community Corrections.....56
- Exhibit 7-A Risk Factors for Domestic Violence Recidivism and Dangerousness86
- Exhibit 7-B Example of Pretrial Decision Making on Domestic Violence Cases88
- Exhibit 7-C New Access to Reports Protects DV Victims.....93
- Exhibit 7-D Suspect-Gone-on-Arrival Domestic Violence Reports94
- Exhibit 8-A Options for Special Conditions of Supervision for Domestic Violence Offenders..... 116
- Exhibit 8-B Definition of Offensive Contact 120
- Exhibit 8-C St. Louis County, Missouri, Domestic Violence Program Contract 124
- Exhibit 8-D Ann Arbor Probation Pioneers Group Probation for Abusers..... 126
- Exhibit 8-E Program Example – California’s Program for Seizing Firearms..... 131
- Exhibit 8-F Notice of Firearms Restrictions 132
- Exhibit 8-G Omaha Domestic Violence Probation Team Seizes Abuser’s Firearms 135
- Exhibit 8-H Law Enforcement Officers Killed by Domestic Violence Perpetrators 142
- Exhibit 8-I Crimes of Violence Victim Notification..... 146
- Exhibit 8-J Principles of Changing Behavior 147
- Exhibit 8-K Intermediate Sanctions that are Effective with Domestic Violence Offenders 148
- Exhibit 9-A Domestic Violence Victim Probation Contact Checklist 160
- Exhibit 9-B Preliminary Safety Plan Questions..... 166
- Exhibit 9-C Separation Risks 168
- Exhibit 9-D Intimate Partner Disclosure..... 171
- Exhibit 9-E Histories of Physical or Sexual Abuse of Inmates and Probationers 172
- Exhibit 10-A Summary of State Standards for Batterer Programs 187
- Exhibit 10-B Outcomes for Batterer Intervention Programs 190
- Exhibit 10-C Clinical Criteria for Successful Completion of Batterer Programs 190

Attachments

Attachment 6-A	American Probation and Parole Association.....	71
Attachment 6-B	Position Statement on Employee-Involved Domestic Violence.....	72
Attachment 7-A	Sample Victim Impact Statement and Letter for Probation Agencies	97
Attachment 7-B	Instructions for Interview Addendum	107
Attachment 9-A	An Overview of Working with Women Who are Abused Throughout the Community Corrections Process	180
Attachment 10-A	Domestic Violence Perpetrator Treatment Criteria for Program Completion	198
Attachment 10-B	Domestic Violence Perpetrator Treatment Participant Treatment Contract.....	199
Attachment 10-C	Program Participation Agreement.....	201
Attachment 10-D	Release of Information	203
Attachment 10-E	Criteria for “Special Fee” Consideration	204



FOREWORD

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OBJECTIVES OF THIS DOCUMENT

This document provides a series of guidelines for community corrections professionals that support a proactive community supervision approach for domestic violence cases. It pulls together in one place for community corrections professionals and allied justice system and community-based services the conceptual information and practical tools to develop or enhance effective programs. Readers of this document will find a recommended course of action that can be used to achieve the three central goals of the document:

- increased safety and autonomy for victims of domestic violence,
- heightened accountability for offenders who commit intimate partner violence, and
- promoting changes in offender behavior and thinking patterns.

It provides community corrections agencies and professionals with an imperative for action in these difficult cases.

PROJECT DESCRIPTION

The American Probation and Parole Association (APPA) was awarded funding by the Office on Violence Against Women (OVW) of the United States Department of Justice to develop guidelines for the community supervision of domestic violence offenders. Beginning with a small planning grant followed by additional funding, APPA forged a partnership with the National Center for State Courts (NCSC) and the Pennsylvania Coalition Against Domestic Violence (PCADV) to conduct this project. The project collected information on court and community corrections practices in sentencing and supervising intimate partner domestic violence offenders by soliciting information about programs and making site visits to several agencies around the country with proactive supervision practices.

A Working Group was assembled to assist the project with developing these practice principles and guidelines for effective sentencing and paroling authority decisions, judicial and paroling authority oversight, and supervision of domestic violence offenders released in the community. (Please see the Acknowledgments page in the front of this document for a list of those participating on the Working Group.) Focus groups and workshops also have been convened by APPA to discuss with practitioners many of the guiding principles and practices outlined here.

This document is the result of the collaboration of many people. The Working Group first generated ideas for the content of the Guidelines, which were then developed into an outline. Staff of the American Probation and Parole Association, with contributions from the National Center for State Courts drafted the document and submitted it for review by Working Group members who helped to refine and clarify issues.

CONTENT AND PRESENTATION OF GUIDELINES

This document is presented in ten chapters. The first chapter provides compelling reasons that intervention in domestic violence cases by community corrections professionals should be a priority and may be more challenging than other cases. Chapter 2 reviews fundamental concepts and information about the dynamics of domestic violence. Chapter 3 summarizes legal issues with which community corrections personnel should be familiar when applying the guidelines. Chapter 4 discusses issues of cultural diversity and cultural sensitivity as they apply to the intersection of domestic violence and community corrections. The fifth chapter describes the goals and principles of the guidelines.

Chapters 6 through 10 present 41 guidelines with a rationale for each followed by implementation strategies. Each guideline represents evidence-based practices grounded in research findings or promising practices garnered from proactive community corrections agencies. The chapters include:

- Chapter 6 – Guidelines for Professionalism and Ethical Practice
- Chapter 7 – Guidelines for Case Investigation
- Chapter 8 – Guidelines for Community Supervision and Enforcement
- Chapter 9 – Guidelines for Victim Safety and Autonomy
- Chapter 10 – Guidelines for Batterer Intervention Programs

Where possible, practice examples from community corrections programs and/or tips for implementation are provided with tools such as forms, sample letters, or policies that may be adapted by local agencies to streamline program development.

SUMMARY OF COMMUNITY CORRECTIONS' RESPONSE TO DOMESTIC VIOLENCE: GUIDELINES FOR PRACTICE

Guidelines for Professionalism and Ethical Practice

GUIDELINE 1:

Community corrections programs and professionals develop active partnerships with domestic violence advocates and other justice system and community organizations and personnel working with offenders or victims to better understand domestic violence and unite in common efforts to promote victim safety.

GUIDELINE 2:

Community corrections professionals engage in ongoing learning opportunities on domestic violence.

GUIDELINE 3:

Community corrections professionals maintain high standards of professional integrity and consciously avoid unintended reinforcement of domestic violence.

GUIDELINE 4:

Community corrections professionals are knowledgeable about and capable of working with offenders, victims, community members, and other professionals from diverse cultural backgrounds.

Guidelines for Case Investigation

GUIDELINE 5:

A consistent, thorough prerelease, presentence, or intake investigation is conducted in all cases of intimate partner domestic violence.

GUIDELINE 6:

Community corrections professionals use effective interviewing strategies appropriate for each person involved in a case.

GUIDELINE 7:

Community corrections professionals identify and investigate for the presence of known risk factors for domestic violence reabuse and danger.

GUIDELINE 8:

Community corrections professionals follow established criteria and protocols for making decisions about the preadjudication release or continuation in custody of intimate partner domestic violence perpetrators.

GUIDELINE 9:

If a standard risk assessment instrument is used in the agency, protocols are in place to override scores based on the presence of domestic violence risk factors that indicate higher risk.

GUIDELINE 10:

Community corrections professionals periodically reassess offenders convicted of and supervised for other crimes to identify those who are also abusing their intimate partners.

GUIDELINE 11:

Investigation of domestic violence offenders is ongoing with new information, violations, pending hearings, or reports from programs prompting immediate scrutiny. Program personnel regularly check for existing or new protective orders or indicators of new criminal conduct and respond to these by investigating them and intervening appropriately.

GUIDELINE 12:

Community corrections professionals independently verify information provided by victims that will be used in sentencing or sanctioning offenders.

Guidelines for Community Supervision and Enforcement

GUIDELINE 13:

Recommended sentences, supervision conditions, and case plans match the level of appraised risk and provide community corrections personnel with the tools and authority needed to hold offenders accountable and promote victim safety.

GUIDELINE 14:

The process of moving cases through investigation, sentencing and intake is expedited so that supervision begins as soon as possible.

GUIDELINE 15:

Initial supervision is intensive and occurs within a context of ongoing evaluation of risk; differential supervision and intervention options are implemented based on risk level changes. Supervision strategies should foster victim safety, offender accountability, and offender behavior change.

GUIDELINE 16:

Offenders are required to maintain abstinence from alcohol and other drugs.

GUIDELINE 17:

Offenders are required to relinquish firearms or other known weapons.

GUIDELINE 18:

Community corrections professionals are aware of stalking behaviors and the threat they represent to victims and employ supervision strategies that prohibit stalking by the offender and promote victim safety.

GUIDELINE 19:

Community corrections professionals thoroughly document activities, findings, and problems related to case supervision.

GUIDELINE 20:

Protocols and strategies are adapted as needed to be culturally sensitive.

GUIDELINE 21:

Community corrections personnel remain vigilant about their own and others' safety during the course of supervision.

GUIDELINE 22:

Community corrections professionals impose immediate responses for any violations of supervision conditions.

GUIDELINE 23:

Warrants for violators and absconders are processed and served expeditiously.

GUIDELINE 24:

Procedures are followed for promoting victim safety when a cross-jurisdictional placement and supervision of a domestic violence offender is requested or carried out.

Guidelines for Victim Safety and Autonomy

GUIDELINE 25:

Community corrections professionals contact domestic violence victims using methods that promote victim safety and provide victims with information that will help them make decisions about their safety.

GUIDELINE 26:

Community corrections professionals discuss risk assessment information with the victim.

GUIDELINE 27:

Further periodic contact occurs with the consent of victims unless they are being notified of an escalation in their risk or a change in the case status.

GUIDELINE 28:

Community corrections professionals validate the experiences of domestic violence victims, provide encouragement and assistance to victims, promote their safety, and actively support each victim's right to autonomy and self-determination.

GUIDELINE 29:

Community corrections professionals protect the confidentiality of victim information.

GUIDELINE 30:

Community corrections professionals assist victims with preliminary safety planning and refer them to domestic violence victim advocates for additional safety planning assistance.

GUIDELINE 31:

Community corrections professionals recognize the risks of separation violence to victims and monitor cases closely to warn victims of related risks, and hold offenders accountable.

GUIDELINE 32:

Community corrections professionals identify additional victims of the perpetrator (if any) other than the victim of record and contact them with information that will help them make decisions about their safety.

GUIDELINE 33:

Women offenders on community supervision are screened for a history of or current domestic violence, and if abuse is present, they are provided the same supportive services as are nonoffender victims.

GUIDELINE 34:

Community corrections professionals are cognizant of the risks to children and others living with an abuser, report suspected abuse or neglect as mandated, and share appropriate information about the offender's behavior to assist in decisionmaking about the safety of the victim and others living with domestic violence.

Guidelines for Batterer Intervention Programs

GUIDELINE 35:

Batterer intervention programs are used in conjunction with community supervision protocols. The primary focus of a batterer intervention program is offender accountability; any rehabilitative benefits for offenders are secondary. The goal is stopping the violence and abuse.

GUIDELINE 36:

Batterer intervention programs conform to appropriate standards that have been developed in partnership with domestic violence advocacy organizations.

GUIDELINE 37:

Community corrections professionals discuss with victims the purpose and limitations of batterer programs.

GUIDELINE 38:

There is regular communication between batterer intervention program personnel and community corrections officers regarding attendance, participation, and progress of offenders in these programs. Community corrections professionals respond immediately when offenders fail to comply with court-ordered program attendance and participation.

GUIDELINE 39:

Where possible, batterer intervention programs accommodate offenders with special needs or diverse cultural backgrounds.

GUIDELINE 40:

Female domestic violence offenders do not attend batterer intervention program groups with male offenders.

GUIDELINE 41:

Batterer intervention programs have protocols for assessing for and referring offenders with substance abuse or mental health problems to appropriate treatment programs, when indicated.



CHAPTER ONE

CHAPTER ONE

What Difference Does It Make?

Domestic violence is a daily occurrence in the United States. Many women and some men are physically, sexually, and emotionally abused by their intimate partners. The results of domestic violence are always painful and sometimes bring tragic consequences for victims and their loved ones. The following story illustrates just one of many cases that resulted in the death of a victim. It is instructive because it demonstrates the many opportunities for intervention in such cases and the potential outcomes when these possibilities are missed. Effective responses to domestic violence require coordinated, collaborative efforts in partnership with a variety of community organizations and professionals. Too often, community corrections, other justice system agencies, and community organizations have worked in isolation. However, responding swiftly and consistently to domestic violence is a job that is too large for a single agency to accomplish; it requires cooperation, coordination, collaboration, and commitments by multiple justice system and community organizations. This manual provides information to enhance the capability of community corrections staff to understand and address intimate partner violence through effective supervision of domestic violence offenders and coordination with other justice system and community-based services. Although the guidelines for community supervision of cases, presented in chapters 6 through 10, provide no guarantee against future tragedies, they are based on both research findings and promising practices in community corrections. They specifically address many of the gaps in responding to domestic violence that are evident in this case example.

MISSED OPPORTUNITIES FOR JUSTICE SYSTEM INTERVENTION: THE STORY OF KRISTIN LARDNER

Kristin Lardner was murdered by her ex-boyfriend, Michael Cartier, on May 30, 1992. She was 21 years old and a talented art student living in Boston, Massachusetts. She met Cartier less than four months earlier, and she attempted to end the relationship after Cartier brutally beat her on April 15, 1992. On that evening, he shoved her down on the sidewalk, threw stones at her as she tried to walk away, hit her with a reinforcing rod from a construction site, threw her down again, and kicked her repeatedly in the head and legs. He also threatened to kill her.

Although Cartier was on probation, and despite restraining orders taken out against him by Kristin, an ex-girlfriend, and a former roommate, his ongoing violations and criminal behavior were not constrained by the criminal justice system. On May 30, at 6:00 p.m. Cartier walked up to Kristin on a public sidewalk and shot her three times in the head. He then ran to his apartment where he was found dead from a self-inflicted gunshot at 8:30 p.m.

Kristin's father, George Lardner, a *Washington Post* reporter, investigated the circumstances surrounding her tragic death in the weeks and months that followed. In 1993, the *Post* published a Pulitzer Prize winning article he wrote about the murder of his daughter, and in 1995 he published *The Stalking of Kristin: A Father Investigates the Murder of His Daughter*.

Cartier had a troubled childhood marked by parental abandonment, institutionalization, and at least one episode of torturing an animal. His adult criminal career began at age 17, and he became increasingly violent until his death at age 22. The timeline on the following pages provide a glimpse of Cartier's interactions with the criminal justice system in his brief adulthood. It also highlights multiple opportunities for intervention that were missed by all parts of the criminal justice system including law enforcement, prosecution, courts, and probation. Had the system moved more proactively to respond to Cartier's criminal behavior, he might not have been free to kill Kristin on May 30, 1992. She had a protection order against him that he violated. He violated several conditions of his probation. Indeed, at one point, he was on probation in three jurisdictions simultaneously; he was able to commit new offenses without being held accountable by probation in these jurisdictions. Law enforcement either could not or would not serve him with necessary papers. Important documents that might have hastened Cartier's arrest were not processed in a timely manner. Judges and prosecutors did not review Cartier's criminal history when making decisions about the issues before them. None of the components of the criminal justice system seemed to be coordinating their efforts for the purpose of promoting victim safety. Lardner (1995, p. xii) described it as a "disjointed system of justice" which allowed errors, omissions, and perhaps indifference to prevail at the expense of victims and the benefit of perpetrators.

(Lardner, 1995)

HIGHLIGHTS OF MICHAEL CARTIER'S LEGAL HISTORY

- 1 5/10/87 – Arrested in Merrimac for vehicular offenses. Fined \$525 and put on probation for 3 months.
- 9 8/30/87 – Arrested in Lawrence for noisy brawl. Case continued.
- 8 9/11/87 – Warrant issued in Amesbury for failure to pay fines on auto violations.
- 7 9/12/87 – Arrested in Lawrence for fight. ROR
- 11/10/87 – Lawrence. Two disorderlies consolidated. Six months probation and alcohol counseling.
- 12/23/87-1/9/88 – Jailed in Lawrence for warrant from Amesbury.
- 1 8/88 – Arrested for trespassing. ROR
- 9 9/10/88 – Burglarized business in Lawrence. Charged with three felonies. ROR
- 8 9/23/88 – Arrested for felony charge of breaking glass in store. ROR
- 1 7/08/89 – Sentenced to 6 months (suspended) in Lawrence jail for felony charges. Put on probation for one year.
- 9 8/29/89 – Charged in Andover with felony food contamination and possession of hypodermic needle. Used needle to draw blood, squirt in restaurant, and empty in ketchup bottle.
- 9
- 1 6/15/90 – Guilty conviction for ketchup bottle incident. Given probation.
- 9 10/04/90 – Arrested in Brighton for trashing apartment. Also killed kitten and charged for cruelty to animals on 10/25/90.
- 0 10/11/90 – Female roommate got a restraining order from Brighton District Court.
- 1/91 – Hit and kicked girlfriend, Rose. Threatened to kill her.
- 1/11/91 – Pled guilty in Boston Municipal Court to malicious destruction for 10/4/90 incident that involved burglary and animal cruelty.
- 1/30/91 & 2/22/91 – Skipped probation appointments in Boston.
- 3/28/91 – Brighton judge issued warrant for probation violation for trashing apartment and threatening girlfriend.
- 4/06/91 – Girlfriend, Rose, gets restraining order in Lynn.
- 1 4/14/91 – Accosted Rose with scissors at subway station.
- 9 4/29/91 – Arrested for violating probation for attack on Rose. Held on \$200 bond.
- 9 5/09/91 – Brighton judge sentenced Cartier to Deer Island House of Corrections.
- 1 6/20/91 – Tried for attack on Rose in Boston. Found guilty. Sentenced to 6 months at Deer Island and 6 months probation.
- 11/05/91 – Released from Deer Island early. Rose not notified. Arrested on warrant from Lawrence for probation violations.
- 11/06/91 – Found guilty on food contamination charge. Sentenced to 59 days in Essex Court jail. Six months suspended.
- 12/05/91 – Assigned probation officer in Boston. Brighton probation officer lost jurisdiction to Boston.
- 12/12/91 – Surrender notice initiated for violating probation in Boston.
- 12/19/91 – Warrant issued by Boston for arrest for violating probation. Warrant never served.
- 12/24/91 – Cartier released from custody in Lawrence.
- 1/17/92 – Cartier surrendered in Boston for probation and restraining order violations. Found probable cause to revoke probation.
- 1/24/92 – Technical probation violation set aside. Ordered to attend Alternatives to Violence program.
- 2/05/92 – Attended first Alternatives to Violence program. Skipped next class.
- 2/14/92 – Probation revoked but stayed for six months.
- 3/92 – Cartier hit Kristen at party. He gives Kristen a kitten and later kills it.
- 4/01/92 – Allowed to start Alternatives to Violence group again.
- 1 4/15/92 – Cartier beat Kristen and threatened to kill her. About the same time he charged \$1,000 to her credit card; she reported it to his probation officer.
- 9 5/11/92 – Kristen got emergency protective order. Never served to Cartier. Still in clerk's office after her murder.
- 9 5/12/92 – Kristen returned to court and got temporary restraining order.
- 2 5/14/92 – Copy of temporary restraining order left at Cartier's apartment.
- 5/19/92 – Cartier contacted Kristen. She called police; criminal complaint application filled out. Still on clerk's desk after Kristen killed.
- 5/19/92 – Permanent restraining order issued.
- 5/28/92 – Cartier missed probation appointment.
- 5/29/92 – Noncompliance letter sent to Cartier.
- 5/30/92 – Cartier shot Kristen three times in head at 6:00 p.m. He was found dead in his apartment at 8:30 p.m.
- 6/19/92 – Warrant issued for Cartier's arrest for failure to attend court.

Since Kristin Lardner was killed in 1992, many positive changes have occurred in the criminal justice response to domestic violence such as:

- mandatory arrest;
- no-drop prosecution;
- victims services;
- better tracking and sharing of information among systems.

Fortunately, some lessons have been learned through the suffering of victims like Kristin.

Historically, individuals, communities, and the justice system regarded intimate partner domestic violence as a private family matter. Behind this veil of privacy, serious criminal violence was allowed to continue and burgeon into a major social problem that maimed and killed thousands of women annually. Finally, in the 1970s, battered women and their advocates said, “Enough!” They began prodding the justice system to treat domestic violence like other assaults (McGuire, 1998). Statistics indicate the rates of domestic violence (both fatal and nonfatal) have declined in recent years. Between 1993 and 2001, the incidents of nonfatal violent crimes against females by intimate partners decreased from 1.1 million to 588,490 such crimes per year. Intimate partner victimizations of men also declined during that period, but less dramatically. Also during the 1993 to 2001 span, intimate partner murders declined. However, the patterns were reversed. Female murder victims of intimate partners declined slightly from 34.9 percent to 33.5 percent of all murders of females. Male victims of intimate partner murders, however, declined from 9.6 percent to 3.7 percent of all male murder victims (Rennison, 2003). Reasons for these declines vary, but more proactive criminal justice responses to domestic violence have contributed to these positive trends.¹

After years of struggle, appropriate attention now is focused more frequently on the arrest and prosecution of intimate partner domestic violence offenders. Community corrections programs (probation, parole, and in some jurisdictions, pretrial supervision programs) now are confronted with supervising these offenders who previously had rarely been designated as needing specialized supervision services or any supervision at all. The 1994 Violence Against Women Act and subsequent legislation promote improved responses to domestic violence cases by law enforcement, prosecutors, courts, and victims’ services. Arrest, prosecution, and sentencing of domestic violence offenders are crucial steps in deterring future violence. Nevertheless, victims often experience violence following these justice system interventions.

Most domestic violence offenders are released on community supervision either in lieu of or following periods of incarceration. Community corrections agencies have the opportunity to reduce the risk of violence by intervening with the offender in a way that promotes victim safety and offender accountability. Despite widespread use of batterer programs for released intimate partner domestic violence offenders, these programs alone largely have not been sufficient to deter further abuse. However, research has found positive benefits for reducing domestic violence recidivism from coordinated community approaches (Saunders & Hamill, 2003) including community corrections programs with specialized domestic violence offender supervision strategies (Klein, Wilson, Crowe, & DeMichele, 2005). Combinations of interventions including arrest, prosecution, sentencing, community supervision, and batterer intervention programs prove more effective than any intervention used singly.

¹ As the preponderance of intimate partner victims are women, when pronouns are used in this document, victims will be referred to in feminine gender and abusers in masculine gender. (See additional discussion in Chapter 2.)

COMMUNITY CORRECTIONS' CHALLENGING CASES

Community corrections professionals who work with intimate partner domestic violence cases usually report that these are among their most difficult and challenging cases. Frustrations may arise over many facets of case supervision including:

- additional time and caseload burdens required to supervise these cases;
- perceived lack of support from agency administrators, the judiciary, and other components of the justice system and the community;
- challenges related to working with victims; and
- insufficient time and resources to perform required tasks, meet victim needs, and hold offenders accountable.

The unique and difficult aspects of these cases mandate that they be supervised in some ways that vary from supervision of other types of offenders. In recent years, some community corrections agencies have developed excellent protocols for supervising domestic violence offenders. Nevertheless, Federal and State statutes, courts, and agency practices often are not rigorous enough, and resources often are not sufficient, to achieve effective supervision of these offenders and successfully foster victim safety. Appropriate sentencing, effective judicial oversight, and vigorous supervision of domestic violence offenders on community supervision must become components of a comprehensive and coordinated community response to domestic violence. To achieve this coordinated and integrated approach, the justice system needs the power of effective supervision and appropriate sanctions to promote victim safety and hold offenders accountable. While the offender is being supervised there is an opportunity—albeit for a limited time—to constrain the offender's violent, controlling, and manipulative actions, hold him accountable for his choice to abuse, and promote behavior change. Further challenges for community corrections include the following:

- **Domestic Violence Laws.** Laws related to domestic violence often make community supervision of intimate partner offenders difficult because the crimes usually are classified as misdemeanors, thus limiting the responses and amount of time available for supervising offenders. Further, domestic violence behavior may be addressed in both criminal and civil statutes, making the system complex and often uncoordinated.
- **Multiple Jurisdictions.** Intimate partner domestic violence perpetrators may be subject to the authority of multiple components of the justice system, making supervision and coordination more difficult. For example, they may be under community supervision for domestic violence or other crimes, and they may be assigned to supervision in more than one county or court jurisdiction with multiple sets of conditions and obligations, as was true with the Michael Cartier case described at the beginning of this chapter. They also may be subject to the authority of civil courts if one or more protective orders have been obtained by victims. Further,

TERMINOLOGY

Community Supervision Professionals

Pretrial, probation, and parole supervision are specific types of supervision afforded to defendants and adjudicated offenders who are released into the community at various times during the justice process. The inclusive terms used for all are *community supervision* or *community corrections*. Personnel who supervise defendants or offenders in the community are referred to as *officers* or *agents* depending on the jurisdiction. In this document they also may be referred to as *professionals* or *practitioners*. Their primary role in working with domestic violence perpetrators is to foster victim safety, offender accountability, and offender behavior change.

divorce, child custody, visitation, and support may be handled by civil or family courts. Add to these the complexity that is introduced when a combination of federal, state, local, tribal, and/or military jurisdictions are involved with the same perpetrator. In many cases, these various courts may impose different—if not conflicting—expectations on the offender and those supervising him. For example, if there is a protective order issued by a civil court, a no-contact condition imposed by a criminal court, and an order for child visitation issued by a family court, the most restrictive order should be enforced for the safety of the victim and the children.

- **Courts.** Domestic violence offenders often reassault their partners, violate protective orders, or violate other terms and conditions of their community supervision (Mederos, Gamache, & Pence, n.d.). However, in many cases prosecutors and courts do not respond to these violations forcefully, predictably, and rapidly enough to support supervision efforts and deter ongoing violence as illustrated in the case of Michael Cartier. If these offenders committed the same acts of violence toward neighbors or other community members, they might be deemed too dangerous for release in the community. They probably also would come to the attention of the justice system much earlier. But because domestic violence offenders are committing offenses against intimate partners—usually behind the closed doors of their homes—the justice system often has treated the crimes with greater leniency than the same types of crimes perpetrated toward individuals outside the family. Even in jurisdictions that mandate arrest of domestic violence offenders, arrest and prosecution rates vary significantly from one jurisdiction to the next.
- **Characteristics of Offenders.** Intimate partner domestic violence offenders are a highly chronic group of offenders (Mederos et al., n.d.) who often believe their behavior is justifiable. They often abuse the same victim repeatedly or abuse a succession of victims, as was true of Michael Cartier. They are some of the most dangerous offenders released into the community, and they are certainly the most dangerous misdemeanants regularly released to the community. By the time they reach probation or parole caseloads, intimate partner domestic violence offenders are often chronic abusers rather than initial, easily deterred first offenders. Although they may be labeled as first time offenders by the justice system, recidivism rates among these offenders generally are high (Mederos et al., n.d.).
- **Offender Manipulation.** Not all behavior that constitutes domestic violence is overt physical violence. Offenders find many ways to control their victims besides assaulting them. Offenders can be manipulative, using persuasion and logic, and they often portray themselves as the victims (Mederos et al., n.d.). In extreme cases, such as the story of Michael Cartier, offenders abuse or kill animals, symbolically telling their victims they are capable of committing the same acts of violence toward victims. Community corrections professionals should be aware of a broad array of possible coercive behaviors by domestic violence offenders that constitute abuse but not criminal activity. For example, emotional abuse, failure to pay child support, taking out a restraining order against an abused partner, or abuse of pets may indicate nonphysical coercion of victims. In some cases, conditions of supervision can be imposed on domestic violence offenders to diminish their potential use of these tactics.
- **Substance Abuse.** There is a very high correlation between drug and alcohol abuse and increased harm from domestic violence. (For example, Michael Cartier's records indicated that he had acknowledged taking LSD, marijuana, cocaine, and hashish (Lardner, 1995)). Studies have found that more than 50 percent of batterers seen in criminal justice, mental health, or social service settings abuse substances (Hamilton & Collins, 1981; Leonard & Jacob, 1988; as cited by Bennett, 1997). Gondolf (2002) found that abusers who had completed a batterer program were three-and-one-half times more likely to reabuse when they became intoxicated than were those who did not get intoxicated. Substance abuse does not cause violence. However, both the frequency and severity of violence may increase when offenders are under the influence of mood altering substances.

Therefore, establishing and monitoring sobriety and obtaining substance abuse treatment, if needed, are essential components of intervening with domestic violence offenders (Mederos et al., n.d.).

- **Difficulty in Predicting Risk.** Research about community corrections practices in general has established that assessing actuarial risks and needs of offenders is an important first step in predicting future recidivism and planning interventions. Research has identified a core group of risk factors (including younger age of offenders, criminal history, low educational attainment, substance abuse, and others) that have the greatest bearing on recidivism when applied to large numbers of offenders. These general risk factors were present in the case of Michael Cartier who was only 22 years old, had an extensive criminal history, had abused a variety of illegal drugs, and had dropped out of high school. However, the research on risk factors for domestic violence recidivism and danger are not as advanced. Factors that are found more frequently in cases of reabuse or cases involving increased danger to victims have been identified by several studies (See exhibit 7-A in chapter 7 for a summary). Work on developing assessment instruments for domestic violence cases has progressed but is not yet considered accurate enough to rely solely on these instruments. Instruments are not yet able to accurately distinguish the combination of factors or a score that reliably predicts reabuse and danger. Criminal justice, victim advocates, and research professionals have concerns about relying solely on assessment instruments, especially if they may under-predict an offender's chances of recidivating, seriously injuring, or killing an intimate partner. Therefore, even if generic or domestic violence assessment instruments are used, community corrections professionals should investigate cases thoroughly for the presence of other factors that may not be reflected in the instruments. For example, official records of criminal history are often inaccurate because of low arrest and prosecution rates for domestic violence. Provisions should be in place to override scores and supervision levels obtained by using standardized instruments if additional risks are found. Further, community corrections professionals must be aware constantly of acute dynamic risk factors in individual cases (e.g., the offender being served with divorce papers or losing custody of children) that may pose an immediate threat to victims.
- **Victim Issues.** Victims of domestic violence may be less likely than victims of other crimes to report abuse to law enforcement

Substance abuse should never be accepted as an excuse for domestic violence, and substance abuse treatment should not be used in lieu of domestic violence interventions. The two problems often co-occur and should receive complementary or integrated interventions. Careful attention should be given to the treatment philosophy of drug and alcohol programs to which domestic violence offenders are referred. Some drug and alcohol treatment methods increase the risk of abuse to victims by fostering the belief that the victim enables the offender's substance abuse. Application of the concept of co-dependency between an alcoholic and his sober partner, recognized in the alcohol treatment field, is contraindicated in domestic violence relationships because of the already inequitable distribution of power and control. Further, victims may believe that offenders receiving treatment are going to be less violent, and they may discontinue their safety plans, with the possibility of increasing their risk. However, abusers who stop using drugs and alcohol are still abusers.

and community corrections staff. According to the National Crime Victimization Survey, only about 54 percent of all intimate partner violence against women between 1992 and 2000 was reported to police (Hart & Rennison, 2003). Among the reasons victims do not report intimate partner violence to law enforcement (and other justice system components) are:

- their beliefs that it is a private or personal matter or only a minor crime;
- their fear of reprisal from the offender;
- a desire to protect the offender; and
- sometimes a belief that police (and other justice system professionals) will not bother, will be ineffective, or will be biased if the crime is reported. (Bureau of Justice Statistics, 2000)

Victims may also fear that children will be removed from their care or they will face financial hardships because of offender reprisals or systems reactions. The victim's actions, including sometimes recanting earlier statements, often are deliberate in an attempt to avoid further danger.

- **Access to Victims.** Domestic violence offenders often have ongoing access to their victims, increasing victims' risk and the potential danger they face. The very fact that the perpetrator and victim are or have been involved in an intimate or family relationship creates an ongoing link between the victim and the perpetrator, particularly if they have children in common. The perpetrator has a lot of personal information about the victim (e.g., employment, family and friends, daily routine) that can be used to ensure ongoing access to the victim. Offenders' efforts to control and manipulate the victim frequently do not cease, even after separation, and often the separation increases the danger to the victim. When there are children in common, there is a socially sanctioned need for continuing communication and involvement between domestic violence perpetrators and victims. For many domestic violence offenders who repeatedly abuse their partners, the next victim is predictable—either a current, former, or future partner.
- **Children.** Domestic violence often affects the children of the partners (including birth children, step children, or others). Reliable data are not available on the national prevalence of children's exposure to domestic violence (Fantuzzo & Mohr, 1999). However, some studies have produced estimates ranging from 3.3 to 10 million children who are exposed to adult domestic violence annually (Schechter & Edleson, 2000). Perpetrators often use the children as a way to control the adult victim (e.g., acts of or threats of violence, custody disputes, sabotage of victim's parenting). Children's exposure also may include watching or hearing violent events, direct involvement (e.g., trying to intervene or calling 911), or experiencing the aftermath of the violence (such as seeing a parent hurt or depressed) (Fantuzzo & Mohr, 1999). Children may experience many effects of violence including feelings of depression or fear for their personal safety, loss of family income or housing, school disruptions because of family relocation, and grief over a variety of losses (Schechter & Edleson, 2002). Over 60 percent of abusers also physically and/or sexually abuse their children. As a result, children may experience emotional, academic, behavioral and physical problems. Reviews of studies have found that 45 to 70 percent of children exposed to domestic violence are also physically abused and as many as 40 percent of physically abused children also are exposed to domestic violence (Margolin, 1998).

Exhibit 1-A provides a comparison between stranger violence and domestic violence. It points out additional reasons these cases are very challenging to supervise.

Exhibit 1-A

STRANGER VIOLENCE		DOMESTIC VIOLENCE
Single Event	◇	Multiple Events
Limited Time Period	◇	Occurs Over Time
Single Intensity Level	◇	Differing/Accelerating Levels of Intensity
Identifiable/Distinguishable Motives	◇	Obscure Motives
Often Random	◇	Never Random
No Prior Relationship with Victim	◇	Some Type of Relationship (marital, familial, romantic)
No Children in Common	◇	Often Children (support, custody, visitation, emotional issues)
No Economic Ties	◇	Economic Interdependence
Socially Condemned	◇	Socially Minimized and Condoned
Offenders are Blamed	◇	Victims are Blamed
Next Victim Unknown	◇	Next Victim Known
Uncertain and Variable Rate of Recidivism	◇	High Rate of Recidivism
No Post-crime Contact with Victim	◇	Ongoing Contact with Victim
Victim Supports Prosecution	◇	Victim May Oppose Prosecution

Source: New York State Probation Domestic Violence Intervention Project. (2001, August 2). *Effective Management of Domestic Violence Cases: Probation's New Approach to Victim Services and Offender Accountability* (Handout material for presentation at the American Probation and Parole Association's Annual Training Institute, St. Paul, MN.)

Only a small portion of all cases of domestic violence ever reach community corrections caseloads. About ten percent of all domestic violence comes to the attention of the criminal justice system. Additionally, there likely are domestic violence perpetrators on community corrections caseloads who were convicted of other, nondomestic violence crimes, so the actual number of abusers being supervised probably is larger than official statistics depict. While it is important for community corrections professionals to be involved in community efforts to prevent and reduce domestic violence, they can only directly intervene in the cases assigned for community supervision. As law enforcement and prosecutors continue to recognize and process these cases through the justice system, and as community corrections professionals learn more about domestic violence, they probably will recognize domestic violence more frequently among those on their caseloads.

Despite the many difficulties involved in supervising domestic violence cases, research has shown that proactive community corrections responses in domestic violence cases can reduce recidivism or delay the time until reabuse occurs and can increase victim satisfaction. Research recently conducted in Rhode Island (Klein, Wilson, Crowe, & DeMichele, 2005) found that offenders supervised by a specialized probation unit with trained officers were less likely to reabuse their intimate partners—and if they did reabuse, the time interval was much greater—than for a comparison group of similar domestic violence offenders receiving supervision on a general caseload. The primary difference between the specialized unit and the general supervision caseloads included contact with victims, more frequent contacts with offenders, and higher rates of returning violators to court.

LANE COUNTY, OREGON: IMPLEMENTING DOMESTIC VIOLENCE SUPERVISION

The following news article illustrates some of the many ways that community corrections agencies can focus efforts to promote victim safety and offender accountability. It demonstrates that a group of committed officers and administrators can make a difference, even with limited fiscal resources.

July 26, 2004

PROBATION OFFICER KEEPS TABS ON BATTERERS

By Bill Bishop - The Register-Guard

Someone is headed for trouble when probation officer Susan Beals sits them down, pulls her chair up close, puts her nose a couple of inches from their face, fixes her gaze and starts talking low and slow.

Matthew Crane has been there.

It was the time Beals found marijuana in his house during one of her unannounced visits to supervise him after his release from the sheriff's Forest Work Camp on a domestic violence conviction. Because other people lived in the house and Crane wasn't there at the time, he narrowly avoided a probation violation and possibly another trip to camp.

He got the up-close talk from Beals, though, a stern reminder that he can't be around drugs and alcohol unless he wants to go back to jail.

....

[When Beals talks to an offender, she listens] methodically - noting [his] body language, watching his eyes, gauging the stress in his voice, looking for inconsistencies, sizing up his credibility.

Beals said her clients - first-timers such as Crane and ex-cons alike - are easy for her to read after supervising 4,000 of them in 8 1/2 years as a probation officer.

In the past four years, her focus has been almost exclusively on domestic violence. Her caseload has doubled to 100 under tightening budgets and a local policy that all domestic violence offenders, even those awaiting trial, get supervised.

All told, 300 people are on supervision for domestic violence in Lane County on any given day. Beals is one of three probation officers who specialize in watching them.

Most have court orders or jail release agreements forbidding them from contacting their victim. Most are ordered to attend weekly batterer intervention programs. Many have to stay away from alcohol and drugs. Violators risk rearrest and a trip to jail, the sheriff's work camp, road crew or community service.

A developing field

Four out of five batterers are misdemeanor offenders, for whom the county's probation department gets no state funding to supervise. Nevertheless, local administrators decided to de-emphasize supervision of low-level property crime

and drug possession to focus on batterers because they pose a much larger risk of violence, said Joan Copperwheat, who supervises county probation officers and has worked locally for 22 years.”

....

The field of batterer intervention and correction - and the community's awareness of the issue - is in its relative youth when compared to more mature understanding of issues such as drunken driving, Copperwheat said.

....

The danger posed by batterers is not lost on Beals, who practices her own safety plan on each of her surprise home visits. She parks away from the house and leaves the car unlocked to aid in a fast retreat. She carries and is trained to use a Glock pistol. On each visit, she scouts for cover, keeps offenders within her sight and maintains a clear path to a door.

All of her clients get at least one unannounced home visit monthly. All must come to her office regularly, some every couple of days, so she can look them in the eye, get a feel for whether they're reaching a boiling point or getting a grip on their conduct.

She spends almost 40 percent of her time with their victims, making sure they're safe.

....

... [D]omestic violence offenders gradually improve their behavior through batterer intervention programs, drug and alcohol counseling, and encouragement from probation officers and others.

....

In recent years, local batterer intervention programs have been improving as well, she said.

Repeat violence dropped substantially when the programs went from 26 weeks in length to 52 weeks, giving more “homework” to offenders and demanding more accountability for their conduct between classes, she said.

Most offenders in the programs eventually learn to identify their feelings and communicate them nonviolently. They begin looking deeper at how they react to situations and start trying to break old habits in constructive ways, she said.

“The formula is pretty easy. Getting these guys to ‘get it’ is pretty hard,” Beals said. “With the domestic violence guys, so many of them grew up in dysfunctional families that they think that’s all there is. I try to find out if they want to do the work. If you get the right person in the right program at the right time, these guys can make big changes in their lives. Once they realize it does work better, sometimes they keep it up. . . .”

Then there are the 20 percent who won't change, who have no empathy for their victims, who will never “get it.” The challenge for probation officers, treatment providers and judges is identifying them quicker, before they commit more violence, and keeping a tighter rein on them.

“We really don't have an answer for that. Until they decide they don't want to go to jail, there's not much we can do,” Beals said. “If they need to be off the street and locked away, I can do that.”

The jail equation

But jail is an option probation officers use with caution because so many offenders get released early because of overcrowding. It sends the wrong message to a probation violator when a judge gives him 30 or 60 days in jail and he gets released after only two days because of overcrowding, she said.

....

Jail overcrowding is not going to ease soon, but jail managers are preparing to launch a new management plan next month that may give probation officers better control over which violators spend more time in jail. The exact number of jail beds to be devoted to parole and probation violators has not yet been determined, according to Lane County sheriff's Lt. Bob Hickok, who has been developing the jail's new Defendant/Offender Management Center.

....

The Lane County Oregon Department of Parole and Probation has implemented many promising and evidence-based practices for supervising domestic violence offenders as illustrated by this article:

- The agency has been an active partner with other criminal justice and community programs that are working together to address domestic violence issues.
- Domestic violence defendants and offenders are supervised throughout the criminal justice process beginning with pretrial release.
- Batterer intervention programs are used as part of a coordinated approach, and community corrections officers communicate with batterer intervention providers about the attendance and participation of offenders in the programs.
- Officers enforce abstinence from drugs and alcohol and other conditions imposed on offenders and make immediate responses when conditions are violated.
- They also take effective officer safety precautions.

A key element of the Lane County and other programs that effectively supervise domestic violence cases is victim contact and attention to victims' safety and other needs. Lane County has also taken a proactive approach to identifying victims of the offenders under supervision other than those involved in the incident for which an offender is being supervised.

Many of these proactive practices will be discussed in greater detail in chapters 6 through 10 that specify guidelines for community supervision of domestic violence cases. Chapter 2 provides an overview of domestic violence, chapter 3 presents a summary of legal issues, and chapter 4 discusses culture and domestic violence. Chapter 5 describes the core values and principles upon which the guidelines in chapters 6 through 10 are based.

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CHAPTER TWO

CHAPTER TWO

Domestic Violence: Fundamentals for Community Corrections Practice

Domestic violence is criminal and noncriminal behavior in which one person in an intimate relationship misuses his or her power to control or coerce the other partner. Domestic violence includes physical, emotional, sexual, and economic abuse and often involves a constellation of behaviors to intimidate and control victims. The violence and abusive behaviors are repeated by individuals in a relationship either as a current or former intimate partner of the same or opposite sex (i.e., spouses, ex-spouses, cohabitants, former cohabitants, those who are parents of a child in common, and those in a dating relationship). These relationships allow for the development of a violent context in which victims are coerced, intimidated, degraded, and exploited. This context creates an atmosphere of fear that serves to control the victim. It is what Ganley (1996) recognizes as similar to tactics used in torture. A domestic violence offender may use physical abuse in a limited fashion to gain control over the victim with routine use of emotional and economic abuse. Ganley (1996, p. 22) summarizes this process by stating, “The fact that the perpetrator has used violence in the past to get what he wants gives him power over her by instilling fear and conveying a promise of violence absent her compliance.” Multiple forms of abuse are connected to one another in an overarching pattern of unequal power and control exerted by the perpetrator upon the victim.

These offenses are fundamentally different from stranger perpetrated crimes. Domestic violence offenders have unlimited access and knowledge of their victims that is used to strengthen their control over victims and reinforce the victim’s perceptions of living in a tightly controlled environment.

Sometimes legal definitions of domestic violence for a specific jurisdiction are more limited in the scope of relationships or behaviors included. Community corrections professionals must understand not only the legal definitions affecting their jurisdictions but also the power differentials that perpetuate domestic violence among the perpetrators and victims with whom they work.

The primary focus of this document will be domestic violence between *adult* intimate partners. Although violence occurs among youth in dating relationships, there are special issues involved in these situations that may not be addressed by these guidelines. Similarly, when intimate partner violence occurs between elderly persons, there may be additional issues related to the age and life situation of those involved that will not be addressed specifically here.

TYPES OF DOMESTIC VIOLENCE

Physical Abuse

Physical abuse is the most recognizable form of intimate abuse—which is not the same as saying it occurs most frequently or is the most damaging. This involves one person using physical force against another person, with the force injuring or placing the victim at risk (or perceived risk) of being injured. This type of abuse involves several specific violent acts such as slapping, biting, punching, kicking, using a weapon, pushing, and strangulation.

Sexual Abuse

Sexual abuse includes an assortment of forced sexual acts upon an intimate partner. Some sexual abuse involves the use of coercion, manipulation, and force to conduct sexual acts the victim does not want to do (e.g., sex with third party, painful sex, degrading sexual acts). Offenders may refuse victims protection from sexually transmitted diseases or birth control. Regardless of the tactics used, the message that sexual abusers convey “to the victims is that they have no say over their own bodies” and hence that the abuser is in control (Ganley 1996, p. 19). Sexual violence is an especially difficult type of abuse for victims to report as it is only recently being recognized as a criminal offense and is extremely traumatizing.

Emotional Abuse

Psychological abuse involves several acts and strategies that all work to weaken the mental and emotional state of the victim. These acts have the combined effect of diminishing the decision making skills of victims as they are weakened emotionally. Psychological abuse may include name calling, property destruction, injuring or killing pets, threatening, isolating, insulting, using children (e.g., threatening to remove them or have them removed), humiliating, and terrorizing. These acts, although not all criminal, create an environment in which victims believe they are not free to make decisions, turn to outside supports, trust themselves, and rebuff the

TERMINOLOGY

Intimate Partner Domestic Violence

The terms “domestic violence” and “family violence” are often used to describe intimate partner violence, child abuse, and elder abuse. Often, statutes that define domestic violence are broad enough to include crimes among various family and household members and may even encompass relatives living outside the household. While crimes committed by children against parents, parents against children, siblings against siblings, and others may be included in domestic violence statutes, they are not addressed in this document. Domestic violence refers here to *intimate partner abuse* or *intimate partner domestic violence*, terms that will be used interchangeably.

offender's control. Victims are likely to experience trauma, damaged self-esteem, lower levels of confidence, and other consequences. Emotionally abusive acts in tandem with other types of abuse allow offenders to use physical abuse intermittently and it can leave the greatest scars and long-term harm for victims.

Economic Abuse

Domestic violence perpetrators maintain their power through controlling mechanisms that include financial constraints as well as limiting and scrutinizing victims' time outside of the home. Victims are seldom permitted to interact with friends and family when the offender is not present. Besides limiting their travel and controlling their time, offenders tend to prevent victims from gaining any sort of financial independence. Some victims are not allowed to get a job nor do they have access to financial resources that are part of the relationship. Instead, offenders see their economic control as an additional mechanism to maintain a tight hold over victims, as the lack of resources limits one's ability to seek help, to get away from the offender (even if only temporarily), and to feel empowered to end the relationship. Many offenders withhold money, prevent the victim from having money, do not allow her to own property, and, in general, exclude her from all economic decisions and control. On the other hand, some offenders rely on victims to work to support the household and/or the offender but still may control how the money is spent.

Exhibit 2-A depicts the power and control wheel which illustrates the many components of domestic violence and can be contrasted with the nonviolence equality wheel shown in exhibit 2-B.

CAUSES OF DOMESTIC VIOLENCE

Many factors contribute to domestic violence behaviors. Many explain domestic violence perpetrators as psychologically defective, generally violent, substance abusers, or having poor conflict resolution skills. While some domestic violence offenders possess certain combinations of these characteristics, domestic violence primarily is the manifestation of learned behavior patterns in a patriarchal society that supports—in both overt and covert ways—general violence and violence against women in particular.

What Domestic Violence Is Not

Discussing explanations of domestic violence brings up the need to debunk common stereotypes and myths about what causes domestic violence. These myths provide many people with quick and simple understandings of domestic violence—cognitive templates to easily understand social reality. Why many myths are historically sanctioned, they are not based on the facts.

Substance Abuse

One popular myth explaining domestic violence is that alcohol and drugs cause abuse because individuals lose their ability to think and act reasonably when under the influence of alcohol or drugs. There are few who doubt the mood-altering effects of drugs and alcohol, but inebriation is not the cause of abuse. Alcohol and drugs are involved in some general crimes, violent crimes, and domestic violence crimes. However, many who use psychoactive substances do not commit crimes or abuse intimate partners.

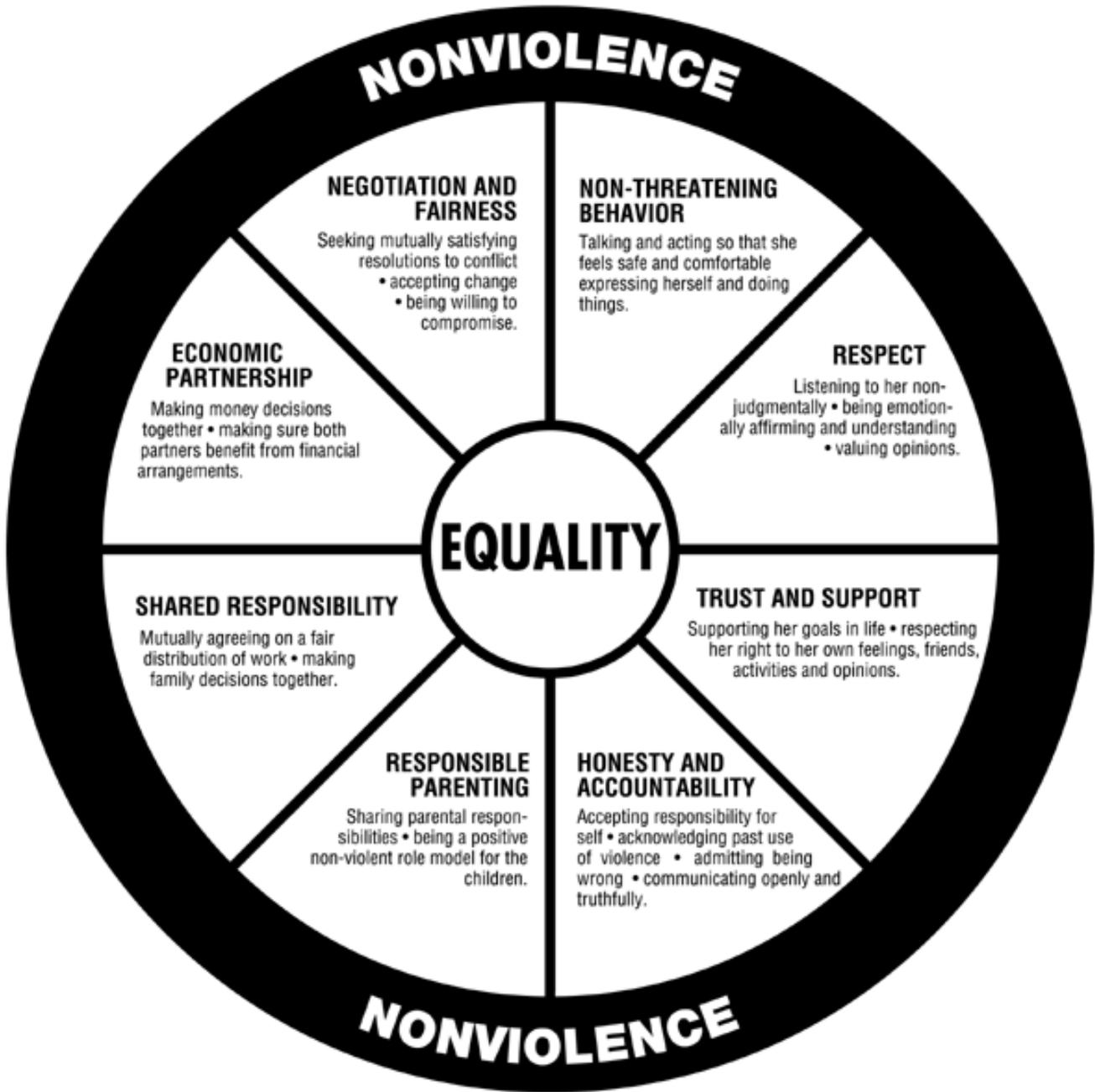
Substance abuse explanations promote the myth that domestic violence is only the occurrence of individual instances of physical violence. This, however, fails to recognize how physically violent altercations between intimate partners shape a relationship built on power and control. What is important to uncover is the meaning of violent events for the victim. Only the victims can explain the fear brought about when a domestic violence

Exhibit 2-A



(Source: Domestic Abuse Intervention Project, 202 East Superior Street, Duluth, MN 55802)

Exhibit 2-B



(Source: Domestic Abuse Intervention Project, 202 East Superior Street, Duluth, MN 55802)

perpetrator looks at them a certain way, walks a certain way, or says specific words. This is because of the context stemming from the use of multiple abusive tactics over time to create a household characterized by abusive control. This process is more complex than to suggest that abuse is the result of substance abuse. However, these features do have a role in abusive relationships as they might make abusive situations more likely to occur or more dangerous.

Anger

It is commonly accepted that certain situations provoke violence (e.g., self-defense, war), and for most people these episodes are rare and largely prohibited by governments. Most people do not realize that victims of domestic violence have a fundamentally different notion of how and when violence is used. Domestic violence is not the result of a domestic argument in which each partner has equal negotiating powers, with one exploding in a fit of rage and lashing out by striking.

Domestic violence is more than individual acts of physical violence. For control to exist, an offender will undertake a series of rational processes (not meaning intelligent) when making behavioral decisions to maximize control over the victim. Perpetrators do not isolate, restrict economic opportunities, or engage in continual emotional abuse because they are intoxicated, angry, or mentally ill. These acts are not the outcome of an argument between intimate partners. Instead, these are purposeful acts stemming from learned patterns of abuse by abusers against their intimate partners.

DOMESTIC VIOLENCE PERPETRATORS

Domestic violence research has tended to compare violent and nonviolent males to isolate specific differences between these groups. This type of research aims to uncover factors that differentiate abusive and nonabusive males to determine if domestic violence perpetrators are fundamentally different from nonbatterers with the hope of developing more accurate assessments and individualized intervention strategies. Domestic violence perpetrators are not a homogeneous group, and not all offenders are readily identifiable. The offenders represent a cross section of the population in our society. The number of domestic violence perpetrators that are able to stay outside of the criminal justice system is significant, as there are many abusive acts that are never reported. Therefore, offenders arrested or convicted for what is defined as their first domestic violence offense may, in fact, have committed many previous acts, but this may be only the first offense recorded by the criminal justice system.

Intent of the Offender's Abusive Behavior

Frederick and Tilly (n.d.) have identified five forms of violence used by intimate partners. The first three of these may meet the definition for domestic violence (i.e. a pattern of controlling, coercive, intimidating, and violent behaviors used to control the victim), whereas the last two would not represent this type of violence.

- **Battering** – ongoing physical abuse, intimidation, coercion, and other forms of abuse by a person to establish or maintain control of his or her intimate partner.
- **General Violence** – use of violence to resolve many kinds of conflicts. A person can be generally violent and also be a batterer if there is evidence of the use of intimidation, power, and control tactics in an intimate relationship.
- **Mental Impairment or Incapacity** – use of violence as a result of an impairment caused by mental illness, alcohol/drug dependence, medication, or other factors. If the person is violent in an intimate relationship, it is important to establish whether he lacks criminal intent in the commission of the violence.

TERMINOLOGY**Domestic Violence Offender**

While the terms batterer, domestic violence abuser, domestic violence offender, and domestic violence perpetrator are commonly used to refer to those who commit acts of domestic violence, and in many situations no distinction is made among these terms, the term batterer may connote only a physical type of violence while abuse includes physical as well as nonphysical abuse such as isolation or emotional, financial, and mental abuse. Not wishing to limit this document to any single point on the continuum of domestic violence against intimate partners, the inclusive terms of domestic violence perpetrators or offenders are used generally to refer to those who have been adjudicated for committing acts of domestic violence by engaging in ongoing systematic patterns of physical, sexual, emotional, and financial dominance and control using both criminal and noncriminal behavior. Preadjudicated domestic violence perpetrators may also be referred

- **Isolated Act of Violence** – use of violence only once in a relationship, and the act is highly uncharacteristic. The incident is not part of a larger pattern of coercion, intimidation, and/or violence. The act may be an illegal assault, but the intent is not consistent with battering.
- **Self-Defense or Responsive Battering** – violence against a partner occurs only in response to the partner’s violence or threat of violence. The person using the violence is trying to control a situation rather than establish overall control over the other person.

It is very important to investigate acts of violence thoroughly and to determine the intent of the violent individual in each case. Most of the time, a pattern of abusive behavior can be discerned. However, in the case of women who are arrested for domestic violence, investigators should look closely at whether the facts of the case indicated self-defense or a response by a domestic violence victim to the battering she has received.

Researchers are beginning to devote more attention to domestic violence batterers and the results have the potential to lead to more individualized community corrections responses. All domestic violence offenders do exhibit a pattern of behavior directed at controlling and abusing their partners.

DOMESTIC VIOLENCE VICTIMS**Meaning and Effect of the Violence on the Victim**

Domestic violence has many severe repercussions for victims revolving around living in a state of fear, entrapment, and isolation due to an offender’s control within the home. This control and the negative emotions related to it are perceived differently by each victim—the consequences are individualized.

Domestic violence creates a hostile environment for victims. Not only do victims experience physical, emotional, sexual, and financial abuse, but they may also begin to doubt their own abilities to perform in society. Some victims may come to question their own abilities to parent, perform their jobs, or move forward with their lives without the offender. Victims may come to accept the definition of themselves provided by an abuser as worthless, unqualified, and unworthy. This sort of perceptual dominance may include an abused woman feeling an even stronger bond to her intimate partner.

Domestic violence victims may experience severe isolation, live in a state of constant fear, and begin to feel further entrapped within

an abusive relationship. At its most extreme, victims may develop something similar to what is known as the Stockholm Syndrome. The Stockholm Syndrome is a psychological state observed in hostages and abuse victims in which the abused identifies more with her captor's (or abuser's) desires than her own or those that are in her best interests. This syndrome was named following a 1973 bank robbery in Stockholm, Sweden, in which two gunmen held four hostages in a small bank vault for nearly six days. The accounts of these events demonstrate that the victims were reluctant to be rescued as they perceived their captors protecting them from the police and actually tried to protect their captors. Following the incident, one of the victims became engaged to one of the captors and another actually started a legal defense fund for the gunmen.

Abusive and isolating events can have several outcomes for victims. Those who have not experienced victimization may become frustrated with domestic violence victims for not immediately leaving the abuser or participating in the criminal justice process. However, as previous research has found, the most dangerous times for women occur when they leave their abusive partners or assist criminal justice professionals (such as testifying against their abuser), as there is a high likelihood that they will be threatened, stalked, injured, and/or killed.

Each victim has individualized perceptions of her relationship and what will keep her (and any children involved) safe. Abuse victims have lived in such relationships for varying periods, and they are potentially the most capable person to evaluate the offender's behaviors and to determine what will keep them out of further danger. Abusive partners have many unspoken or coded forms of communication that outsiders do not understand. When an offender casts a particular glance, stands a certain way, jingles his keys, rubs his knuckles, says certain words or phrases, or uses other sorts of communication, it may convey to the victim (and only to the victim) that he is agitated, disappointed, or otherwise preparing to abuse her (e.g., hit her, scream at her, break things, lock her in a closet) (Dobash & Dobash, 1979).

Frequently Seen Victim Behaviors in the Criminal Justice System

Criminal justice practitioners often have behavioral expectations for victims: Victims (especially female ones) are generalized as compliant, helpful, and grateful. However, that is not always the case. Victims are not all the same. Similar to any other social category, victims have many different opinions, attitudes, beliefs, and behav-

to as *domestic violence defendants*.

Probationer, parolee, offender, defendant, and domestic violence perpetrator are all used as applicable to the situation. *Domestic violence offender* or *domestic violence perpetrator* are the terms most commonly used in this document.

The term client is not considered appropriate for designating those who have been adjudicated for domestic violence offenses and sentenced to a term of probation or community supervision or released on parole. The term "client" tends to imply that offenders are viewed similarly and have status equal to victims. The term client suggests the idea of a customer and accountability to the offender rather than the offender's accountability to the justice system. It further tends to diminish the criminal nature of the offender's behavior.

TERMINOLOGY

Domestic Violence Victim

Victimization may be seen as an initial status of those abused by intimate partners, followed by characterization as a *survivor* when issues of victimization are addressed. However, some victims do not believe they will ever be a “survivor,” as they believe their abusers will kill them eventually. During the time domestic violence offenders are being supervised in the community, it seems more likely that contact will be with victims (individuals for whom the acts of violence have been recent). Hence the term *victims* will be used in this document.

Feminine pronouns (she, her) will be used to refer to victims, and masculine pronouns (he, him) will be used to refer to offenders or perpetrators. This is not meant to suggest that males cannot be victims nor to minimize the intimate partner violence that occurs among same sex couples. However, documentation on gender in adult intimate partner violence

iors. Victims may, in fact, be uncooperative, recant, or even decide to reunite with the offender. These are decisions that only the victim can make.

Community corrections professionals may become frustrated with victims who do not exhibit behaviors consistent with mythical ideals. Victims may be hostile toward criminal justice practitioners. Ames and Dunham (2002, p. 19) provide several sketches of domestic violence offenders on probation. One of these stories summarizes well the difficulty some community corrections officers encounter when supervising domestic violence caseloads. The authors describe Jamie (the victim) and Casey’s (the abuser) relationship that had existed for several years. They had two children together. The probation officer in this case had problems as Jamie was described as “...not perfect. Although she was pretty, young, and in many ways innocent...she was less than respectful verbally to police and to the judge. She was feisty with authority figures...She also once absconded with Casey after bringing charges against him and allegedly wrote love letters to him while filing complaints about his stalking” (Ames & Dunham, 2002, p. 19). In this case, Casey’s probation officer remained vigilant. In fact, Jamie began to make decisions to distance herself from Casey and became more cooperative with authorities, and while on intensive supervision, Casey was violated for absconding.

Victims have many reasons for not being “cooperative” with officers such as:

- distrusting criminal justice practitioners,
- embarrassment,
- being economically and psychologically dependent,
- being frightened of further retaliation, and
- having a desire to keep the family together.

JUSTICE SYSTEM RESPONSES TO DOMESTIC VIOLENCE

Some abusers have long used violence to control their intimate partners, whether in the form of physical abuse, verbal assault, control of economic and material resources, or psychological trauma. In the United States, at least through most of the 19th century, common law allowed men to physically discipline their wives with a provision known as the right of chastisement, which supported, and at times expected, a husband to correct his unruly wife. Laws now forbid such treatment, but it was not until recently that the courts have taken intimate partner abuse seriously.

Sherman and Berk (1984) were interested in determining the

effects of arresting misdemeanor domestic violence offenders over a six-month follow-up period by using police written reports of repeat abuse and victim interview statements of (broadly defined) repeat incidents. Analyses revealed that arrested offenders were significantly less likely to reoffend their intimate partner when compared with a randomly selected group of offenders separated temporarily from their partner by police. However, only three of the 136 offenders included in the study received further justice system sanctions (e.g., fine, incarceration). Recognizing the need for a coordinated multiagency response, Sherman and Berk suggest that “the swift imposition of a sanction of temporary incarceration may deter male offenders in domestic assault cases” (Sherman & Berk, 1984, p. 261).

In 1994, the Federal government passed the Violence Against Women Act recognizing intimate partner violence as negatively affecting children and society in general. The 1994 Act and subsequent legislation utilized the Federal government’s power to prohibit interstate travel to commit domestic violence, interstate stalking, and interstate travel to violate an order of protection. Besides these prohibitions the Federal government took a strong stance against domestic abusers owning firearms by prohibiting individuals subject to orders of protection from possessing firearms and extending prohibitions to individuals convicted of misdemeanor domestic violence.

A few studies point to the conclusion that an important role for probation and the courts may be holding offenders accountable, promoting changes in their behavior, and restricting their access to victims. Olson and Stalans (2001) compared 124 offenders on probation for domestic violence offenses with a group of 287 probationers convicted of other violent offenses. The two groups were similar on measures of probation outcomes including rearrests, technical violations, and probation revocations. The domestic violence offenders tended to receive shorter probation sentences than other violent offenders, although they were more likely to revictimize the same individuals than their counterparts in the generally violent offending group.

Criminal justice system intervention and response to domestic violence cases has improved over the past several decades. Research demonstrates that mandatory arrest laws in conjunction with increased sanctions and stricter probation monitoring and group intervention programs have the potential to decrease repeated abuse. Community corrections officers need to participate in multiagency strategies to coordinate efforts from justice system and community services to hold

indicates that by far the majority of victims are female (Rennison & Welchans, 2000).

In some cases the use of *primary victim or victimized partner* may be used to provide greater clarity and to recognize and distinguish from other possible victims such as children in the home who have witnessed or been harmed by the domestic violence. Indeed, there often are multiple victims of intimate partner violence including children and those who intervene in domestic violence episodes (e.g., first responders, neighbors) and new or former partners. Offenders may also proceed to abuse new partners. Although an offender may no longer be with the victim of the offense for which he is being supervised, his behavior patterns that resulted in adjudication and community supervision may continue and pose a risk to new partners. Studies show batterers often abuse multiple partners.

offenders accountable and support the safety of victims.

CONCLUSION

Domestic violence is a serious social problem having extremely harmful effects for victims. Community corrections officers have a key role when supervising domestic violence caseloads as they can enforce court ordered conditions. “To be effective,” according to Taxman, Soule, and Gelb (1999, p. 6), “sanctions must be immediate responses to infractions by restricting the offender’s freedom and redirecting behavior.” This immediate response to inappropriate behaviors is essential for offenders to clearly understand that they are being supervised closely, that community supervision has serious consequences, and that further abusive behaviors will not be tolerated. It seems that community corrections supervision is perceived by many as being soft on criminals, as though it is not really punishment. This stereotype is true only when community corrections administrators and officers do not actively work to enforce supervision conditions or when other justice system practitioners do not support their intervention.

When supervising domestic violence offenders officers must recognize the uniqueness of this sort of supervision. Domestic abusers are violent offenders, they are often recidivists, they likely have direct access to their victims, and they are potentially dangerous. The dangerousness not only applies to the victim but also extends to the community and increased risk to the community corrections officers. Domestic violence offenders have exhibited their willingness to use violence—in its many forms—to gain control over their victims in an intimate setting. This intimate setting, unfortunately, is seen as making these crimes of violence less severe. The perception that domestic violence (and all family violence) offenders are somehow less serious criminals than those committing crimes against strangers is fundamentally wrong. In fact, a person’s willingness to repeatedly hit, kick, punch, insult, harass, stalk, isolate, imprison, rape, and otherwise victimize anyone, demonstrates a lack of empathy, an inability to handle conflicts nonviolently, and a certain degree of cruelty. That these acts are committed upon a person with whom an offender is intimate does not diminish the seriousness of these crimes. Instead, officers should be more prepared to respond to all noncompliance with supervision conditions as domestic violence cases are the most likely to end tragically.

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CHAPTER THREE

CHAPTER THREE

Legal Issues in the Supervision of Domestic Violence Offenders

This chapter² addresses legal issues specifically relevant to intimate partner abuse that community corrections professionals should identify and consider when supervising domestic violence offenders. The chapter provides an overview of these legal issues, a checklist of issues community corrections professionals should review for each domestic violence offender under supervision, and a list of resources to obtain further information. Many of the practice guidelines presented in this manual apply to the legal issues addressed in this chapter. Likewise, several issues identified in this chapter are discussed more fully in other sections of this manual. To facilitate the identification of legal issues potentially implicated in particular components of domestic violence offender supervision, cross-references to these interrelated guidelines and commentary are provided.

² This chapter was written by Susan Keilitz.

LEGAL DEFINITIONS OF DOMESTIC VIOLENCE

Chapter 2 presents a detailed discussion of the definition of domestic violence, which is broader than the legal definitions typically included in federal and state laws. Chapter 1 outlines several of the challenges intimate partner abuse cases present to community corrections professionals. One of these challenges is the variety of criminal offenses and civil remedies under which domestic violence cases can arise.

Criminal offenses. Criminal offenses may be classified as felonies or as misdemeanors, although most domestic violence crime is charged and prosecuted as a misdemeanor. In some statutory schemes, subsequent misdemeanor offenses may become enhanced to felony status. In many state criminal codes, domestic violence crimes are addressed in separate code sections (e.g., Alabama) and include specific definitions of what behaviors and relationships constitute domestic violence. In many states, the violation of a civil protection order (restraining order) is a misdemeanor crime. All states and the District of Columbia have separate stalking statutes (National Center for Victims of Crime, Stalking Resource Center). In some states (e.g., Pennsylvania), domestic violence crimes are included in general criminal code provisions (e.g., assault, aggravated assault, sexual assault, rape, kidnapping, theft, burglary, trespassing). In these states, offenders in community corrections caseloads may not be readily identified as domestic violence perpetrators. (See chapter 7, guideline 10.) At times, even though States may have domestic violence laws, offenders under community supervision may have plea bargained to other offenses and may not be readily recognizable on caseloads.

Civil remedies. All states, territories, and the District of Columbia have statutory provisions for civil protection orders. These statutes provide processes for domestic violence victims to seek relief from domestic violence directly from the court and outside the criminal justice system. Although the actions brought under civil protection statutes are not criminal matters, violations of protection orders are criminal offenses in many states and the existence of a protection order against an offender raises several issues for the supervision of that offender. Civil protection orders are discussed in further detail below.

JURISDICTIONAL ISSUES

A second challenge intimate partner abuse cases present to community corrections professionals, noted in chapter 1, is the potential for multiple and overlapping jurisdictions that may complicate supervision of domestic violence offenders. Multiple legal actions may be pending

Two caveats are in order here. First, an array of federal, state and local laws, regulations, and policies apply to the work of community corrections professionals. This chapter does not address many of these issues; several publications address these issues very well, and references are made to them in the list of resources. Second, the purpose of this chapter is to introduce community corrections professionals supervising domestic violence caseloads to relevant legal issues; it is not a legal primer or an exhaustive presentation of these issues. In many areas of the law, state statutes define rights and responsibilities; in other areas, local rules or department policy might govern practice. Community corrections professionals should learn and follow Federal, State and local laws, rules, regulations, and policies. They also should consult legal counsel for the community corrections department when they are unsure whether or how particular legal issues might apply to their supervision of offenders.

or disposed of in different courts in which the court has issued orders regarding the actions of the offender and/or the victim. These orders may contain conflicting terms regarding the rights or responsibilities of the parties. The various sources of authority and potential restraints on offender behavior raise the level of surveillance required for effective supervision (see chapter 7, guideline 11). As suggested in chapter 6, guideline 1, community corrections officers can obtain knowledge of and assistance in monitoring offenders by partnering with other government and community agencies.

Jurisdiction of Different Courts

The first level of overlapping jurisdiction may result from different courts in the local jurisdiction having some type of involvement with the offender or the victim. Besides the criminal court in which the offender was convicted, it is possible that the offender also was the subject of criminal proceedings in another county or municipal level court. Because domestic violence offenders have an intimate relationship with the victim, the offender and victim may be involved in a domestic relations or family court matter, such as divorce, child custody, visitation, child support, or paternity. In some jurisdictions there are separate juvenile courts, where the offender may be the subject of a child abuse and neglect action. One of the most common jurisdictional overlaps is with the court in which victims can obtain civil protection orders. Depending on the state, this court might be a family division of the court of general jurisdiction, a separate family court, or another court of limited jurisdiction (e.g., the Juvenile and Domestic Relations Court in Virginia).

Domestic violence crimes and civil protection orders also may be part of the jurisdiction of a domestic violence court, which many judicial systems have implemented. There is no uniform definition of a domestic violence court, and jurisdictions vary in the types of cases they handle through such courts. For example, a domestic violence court may adjudicate all domestic violence misdemeanors but not protection orders, while another may include all civil and criminal domestic violence matters. Domestic violence courts are often part of a family law division or a criminal division of a court. In some jurisdictions, justice system agencies (e.g., prosecutors, law enforcement, and community corrections), social services, and community-based domestic violence victim services agencies are located within the domestic violence court so that the court serves as a centralized location for domestic violence victims and offenders. Several jurisdictions have expanded this service delivery model to become family justice centers.

Interstate Compact for Supervision

All the States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands participate in the Interstate Compact on Adult Offender Supervision (referred to as the Compact). The Compact governs under the authority of federal law the transfer and supervision of offenders who wish to move from the jurisdiction in which they were sentenced while they remain under probation or parole. Chapter 8 provides a detailed discussion of the Compact, its provisions, and its implications for the supervision of domestic violence offenders (see chapter 8, guideline 24). The Interstate Commission for Adult Offender Supervision (ICAOS) oversees the implementation of the Compact and offers information and training materials for community corrections officers at its web site.

ICAOS also has developed a national information sharing system, the National Adult Compact Information System (NACIS). This database will provide states a central mechanism for sharing and tracking electronic information on offenders and their transfers across jurisdictions. NACIS is in the testing phase and training on the system is expected to be implemented in early 2006. Community corrections officers will be among the initial users of the system, which is expected to be fully implemented by August 1, 2006 (see Interstate Commission for Adult Offender Supervision, www.interstatecompact.org).

Full Faith and Credit Provisions of the Violence Against Women Act

The Violence Against Women Act of 1994, subsequently amended by the Violence Against Women Act of 2000 (VAWA), requires that state and tribal law enforcement, prosecutors, and courts enforce qualified protection orders issued by other states, tribes, and territories in the same manner in which they enforce their own protection orders. The VAWA 2005 definition of a protection order is broad and includes both civil protection orders obtained by victims on their own initiative and criminal protection orders that are issued in connection with a criminal prosecution or as part of conditions of pretrial release or probation:

The term “protection order” includes --

(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite [waiting for litigation] order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking (18 U.S.C. 2266(5)).

A qualified protection order is one that (1) was issued by a court with jurisdiction over the parties and matter under the law of the state, territory, or Indian tribe, and (2) the person against whom the order is sought had reasonable notice and opportunity to be heard sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by state, territory, or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights. Verified service of the order often is required to make it valid.

Although the full faith and credit provisions have been in effect for over a decade, many states and tribes are still resolving issues related to cross jurisdictional enforcement of orders. One promising development that should assist community corrections officers in determining the validity and enforceability of a protection order from another jurisdiction is the movement to implement a “commonly recognizable” first page for protection orders. The model template for a recognizable first page contains information required to enforce a protection order and places this information on the page in a format that renders the first page easily recognizable by law enforcement and others involved in enforcing protection orders in other jurisdictions.

Another challenge for protection order enforcement, both within and across state lines, is the availability of information about protection orders in automated data systems, such as local law enforcement and court databases, state protection order registries, and the National Crime Information Center's Protection Order File (NCIC POF). Various challenges, including data incompatibility, lack of numeric identifiers for defendants/ respondents, and inadequate resources (hardware, software, and staff) have created barriers to continuous access to current and accurate information on the validity and specific provisions of protection orders. Community corrections officers also face these challenges and therefore should identify and regularly check all available sources of information on protection orders that may be in effect against offenders under their supervision.

Military Jurisdiction

Domestic violence offenders who are in the military may be subject to a Military Protection Order (MPO). The commander of a military unit has the authority to impose an MPO on a service member who is attached to the unit. MPOs can be issued to protect service members, family members, or any other person who might be the victim of the service member's abusive behavior. MPOs can include stay-away and no-contact provisions, and they may require the service member to move into military housing. MPOs are "administrative orders" that are enforceable only by the military police; they are not enforceable in civilian judicial systems. An MPO also is enforceable only as long as the service member is attached to the commander who issued the order; therefore, MPOs do not follow the service member to a new assignment.

The existence of an MPO should be included in information that domestic violence offenders are required to disclose to community corrections officers. If an offender is subject to an MPO, the community corrections officer should notify the military police on local military installations if the offender commits new acts of abuse off the military installation. Community corrections officers should learn about the services available to victims of service members through the Family Advocacy Program, which was established by the Department of Defense to address family violence in the military by providing prevention and intervention services, support services for victims, and intervention programs for offenders. The Military Family Resource Center provides directories of Family Centers and Family Advocacy Programs on military installations (Military Family Resource Center, <http://www.mfrc-dodqol.org/progDir/index.cfm>).

Tribal issues

Two of the most common jurisdictional issues of interest to community corrections officers and related to tribes are tribal court protection orders, which are entitled to full faith and credit under the Violence Against Women Act (18 U.S.C. § 2265), and the Indian Child Welfare Act, that applies to children of offenders under supervision if one parent is Indian (National Indian Child Welfare Association <http://www.nicwa.org/>). Several web sites provide information on these and other tribal and Indian law issues that may apply to domestic violence offenders (e.g., National Tribal Justice Resource Center; www.tribalresourcecenter.org; the Tribal Law and Policy Institute, www.tribal-institute.org).

CIVIL PROTECTION ORDERS

Domestic violence victims may petition the appropriate court through a civil process to obtain a protection order as a method of obtaining relief from domestic abuse. Across the states, territories, and tribes, various names are used for protection orders including, for example, ex parte orders, protection from abuse orders, civil protection orders, orders of protection, and restraining orders.

Protection order statutes are designed to allow victims to proceed on their own, without an attorney, and in some cases (e.g., Family Court) without the involvement of the criminal justice system. The procedures for obtaining an order and the types of orders vary, and may include emergency orders, temporary orders, and final or permanent orders. Orders issued through a civil process can provide critical relief for domestic violence victims. Civil protection orders can be obtained relatively quickly, providing a wide range of relief needed to support distance, protection, and independence from an abuser as well as providing an alternative to the criminal justice system.

State statutes vary in the breadth of eligibility for civil protections orders. Many states limit eligibility to family type relationships (current and former spouse, current or former intimate partner, parent of a child in common, and parent or child). Some states exclude same-sex partners, while others exclude people in dating relationships. Others are so inclusive they apply to roommates who are not intimate partners. The Women's Law Initiative provides online access to state-by-state information on current civil protection order statutes and procedures (www.WomensLaw.org).

All states provide protection orders prohibiting physical acts of violence or threats of violence. In most states protection orders also may prohibit the respondent/defendant from any type of contact with the protected party, her children, and other designated individuals and exclude the respondent/defendant from entering designated places, such as the protected party's home, work place, school, and place of worship. Other types of relief available through civil protection orders vary widely among the states. For example, many states allow temporary custody of the parties' children, child and spousal support, and payment of damages and other economic relief. In other states, however, this relief is not available through a protection order, and victims must file separate actions on these matters in domestic relations or family court. Although victims ultimately must resolve many of these types of legal issues through the family law process, access to immediate relief through a protection order may be critical to the victim's ability to leave an abuser and protect herself and her children from further abuse.

For protection orders to be effective remedies and promote victim safety, they must be enforced consistently and universally by law enforcement, prosecution, and courts. One of the most dangerous times for a domestic violence victim is when she is fleeing the batterer, and victims often seek safety and refuge by moving to another state or locality within a state or tribe. Many victims live near the border of a neighboring state or tribal jurisdiction and must continually pass across jurisdictional boundaries to work, shop, worship, play, and engage in other normal life activities. Without an enforcement network that ensures their protection from the batterer's abusive behavior, domestic violence victims cannot realize the benefits that protection orders are intended to provide.

Many victims of domestic violence crimes obtain civil protection orders in an effort to secure another layer of protection from the abuser and to obtain relief not available through criminal protection orders or the criminal justice system. Community corrections professionals play a critical role in enforcing civil protection orders issued to protect victims of offenders under supervision and have a number of tools at their disposal.

- In the regular course of supervision, make periodic inquiries of available information sources (e.g., NCIC, state registries, and state, regional, and local databases) to identify offenders subject to protection orders and document reported violations.
- In discussions with victims, ask if an order exists, explain the limitations of the order, and advise them how they can report violations to the community supervision officer and a law enforcement officer or the prosecutor.
- Facilitate enforcement by contacting law enforcement and/or the prosecutor to ensure they take appropriate action on reported violations.
- Facilitate enforcement by holding the offender accountable for behavior that violates a protection order.
- Consider initiating proceedings to revoke the offender's pretrial release privilege or probation when offenders are charged with violating a protection order.
- Initiate proceedings to revoke the offender's pretrial release privilege or probation when offenders are convicted of violating a protection order or a court finds the offender to be in contempt for violating a protection order.

FEDERAL AND STATE FIREARMS LAWS

Numerous studies and homicide statistics demonstrate the danger and lethality of firearms in the hands of domestic violence offenders (see studies cited in chapter 8: Violence Policy Center, 2002; Bailey, et al., 1997; Saltzman et al., 1992; Bailey). Chapter 8 of this manual discusses the rationale for requiring offenders to surrender any weapons they possess and for continually monitoring the offender's acquisition of additional firearms (guideline 17). Federal and state law prohibitions for firearms possession reflect the need to diminish the potential for a lethal outcome of a domestic violence incident.

Federal law prohibits domestic violence perpetrators from possessing firearms and ammunition, and it prohibits the knowing sale or other disposition of firearms or ammunition to persons prohibited from possessing firearms (Halstead, 2001). Several States also have passed legislation related to the possession of firearms by domestic violence offenders. When both State and Federal laws pertain to this issue, both must be followed. Community corrections professionals supervising domestic violence offenders must be familiar with all applicable laws.

SUMMARY OF FEDERAL FIREARMS LAW

Felons and Other Prohibited Offenders

The Gun Control Act of 1968 (18 U.S.C. § 922(g)(1-7)) prohibits felons (i.e., offenders convicted of a crime punishable by imprisonment for a term exceeding one year), fugitives, drug addicts, certain mentally ill people, illegal and certain nonimmigrant aliens, dishonorably discharged military personnel, and those who have renounced their United States Citizenship from possessing, receiving, or transporting firearms or ammunition. The act also prohibits anyone who is under indictment for a crime punishable by imprisonment for a term exceeding one year from possessing, receiving, or transporting firearms or ammunitions (18 U.S.C. § 922(n)). Further, the act states that any firearm used or intended to be used in violation of the Gun Control Act is subject to seizure and forfeiture (18 U.S.C. ' 924(d)). Violation of the law carries a maximum penalty of a \$10,000 fine, or ten years in prison, or both (18 U.S.C. ' 924(d)). Domestic violence offenders convicted of felony offenses are subject to this prohibition.

Persons Subject to a Domestic Violence Protection Order

The Violent Crime Control and Law Enforcement Act of 1994 amended the Gun Control Act of 1968 by adding the provision that anyone who is subject to a qualifying protection order may not possess, receive, or transport firearms or ammunition (18 U.S.C. § 922(g)(8)). The protective order itself does not need to prohibit possession of firearms or ammunition for this firearms ban to be in effect. This prohibition applies only for the duration of the qualifying protection order. Qualified protection orders must contain the following elements:

- The respondent/defendant (i.e., the domestic violence offense perpetrator), must have received actual notice and had the opportunity to participate in a hearing
- The petitioner must be an intimate partner of the respondent/defendant (spouse, former spouse, parent of a child in common with the respondent/defendant, or current or former cohabitant with the respondent/defendant)
- The order must restrain the respondent from harassing, stalking, or threatening an intimate partner or the child of the partner or the respondent, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child;
- *And* the order must *either*:
 - include a finding that the respondent represents a credible threat to the physical safety of such intimate partner or child, or

- explicitly prohibit the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

Misdemeanor Domestic Violence Offenders

The Lautenberg Amendment, enacted in 1996, amended the Gun Control Act once more to include the provision that persons convicted of certain misdemeanor domestic violence crimes are prohibited from purchasing, possessing, or transporting firearms or ammunition (18 U.S.C. § 922(g)(9)). Qualifying offenses may be misdemeanor crimes of domestic violence under Federal, State, or tribal law and must have as an element the use or attempted use of physical force or the threatened use of a deadly weapon. The perpetrator must have been represented by counsel (or knowingly and intelligently have waived the right) and, if entitled to a jury trial, have had the opportunity for a jury trial or knowingly and intelligently waived the right to either of these. Further, the perpetrator and victim must be in one of the relationships set forth in 18 U.S.C. 921(a)(33). The Lautenberg Amendment stipulates a lifetime ban on firearm possession following a qualifying misdemeanor conviction, but it does provide for restoration of firearm possession rights in limited circumstances such as the expunging of the conviction, pardon of the person, or restoration of the person's civil rights, if the restoration does not contain a firearms restriction.

Official-Use Exemption for Certain Persons Subject to a Protection Order

A provision of the federal law (18 U.S.C. § 925(a)(1)) exempts military personnel, law enforcement officers, and other local, state and federal employees required to use firearms to conduct their official duties from the prohibitions against possessing their service weapons. However, they may not possess personal firearms. If any of these employees also are convicted of a misdemeanor domestic violence offense, the official-use exemption does not apply to them. Military personnel, law enforcement officers, and others required to carry weapons who are convicted of misdemeanor domestic violence offenses may not possess personal or officially issued weapons, and thus are likely to be declared ineligible to perform the duties of their jobs.

Restrictions on Sale or Transfer of Firearms and Ammunition

For each of these legislative prohibitions, companion provisions within the U. S. Code prohibit the sale or other transfer of firearms and ammunition to any of these classes of defendants. Specifically, it is a federal crime to sell or otherwise provide firearms or ammunition to a person whom the seller/provider has reason to believe is legally disqualified from possessing them. This restriction applies whether the seller/provider is a dealer, member of the justice system who has accepted surrender of or confiscated the firearms or ammunition, or a friend or family member who has possession of the firearms or ammunition.

Background Checks

The National Instant Criminal Background Check System (NICS) was established to provide records checks on persons purchasing firearms or ammunition from Federal firearms licensees to determine whether the buyers are prohibited from these purchases. The NICS was developed by the FBI through a cooperative effort with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and local and state law enforcement agencies. Federal Firearms Licensees generally are required to access the NICS for a background check on each potential purchaser before selling or transferring firearms. If no disqualifying information is found, the person is allowed to make the purchase within three business days; if disqualifying information is found, the transfer may not proceed. The transfer may be delayed for three business days if more information is needed to determine whether the indi-

vidual is ineligible to purchase the firearm. The sale may proceed after three business days even if all background information has not been obtained, but the FBI will continue to research the case (*National Instant Criminal Background Check System Fact Sheet*, n.d.). If disqualifying information is subsequently found about someone who has already purchased a firearm, the FBI will request that the ATF retrieve the firearm after the sale (General Accounting Office, 2002). (Please note: Some States impose longer waiting periods.)

Challenges to the Federal Firearms Laws

Numerous challenges have been raised against provisions of the Gun Control Act as it relates to domestic violence offenses. Plaintiffs have pursued several legal theories, including the reach of the Commerce Clause (*United States v. Napier*, 233 F. 3d 394 (6th Circuit Court of Appeals, 2000) and infringement of constitutional rights (e.g., the right to bear arms under the Second Amendment (*United States v. Emerson*, 270 F. 3d 203, 5th Circuit Court of Appeals) and equal protection under the Fourteenth Amendment (*Hiley v. Barrett*, 11th Circuit Court of Appeals, 1998) (Mitchell & Carbon, 2002; Halstead, 2001). Despite the number and variety of legal challenges to the federal firearms laws, none of them have been upheld in appellate courts (Mitchell & Carbon, 2002).

STATE FIREARMS LAWS

Many states have laws addressing weapons in general, statutes about possession of firearms by domestic violence defendants, legislated penalty enhancements for firearms possession, laws that provide specific procedures related to the forfeiture and disposition of offenders' weapons, or other statutory provisions. Some state laws mandate weapons prohibitions, while others give judges discretionary authority to prohibit firearms possession in civil protection orders or in conditions of bail or probation (Mitchell & Carbon, 2002). Community corrections professionals should be well informed about their jurisdiction's laws regarding firearms when formulating policies and practices for issues related to firearms and domestic violence offenders. Policies regarding the relinquishment of firearms will be strongest if they are supported by legislation.

Three sources provide a quick reference to state laws regarding firearms. The information presented may not be the latest legislation enacted, however, and community corrections professionals should use the reference as a starting point for finding the state law currently in effect.

- The Bureau of Alcohol, Tobacco, Firearms and Explosives provides a compilation of State Laws and Published Ordinances on Firearms, at www.atf.gov/firearms/statelaws/ (26th edition, which was updated in 2005).
- The Women's Law Initiative provides information on state laws regarding civil protection orders and other domestic violence laws at www.womenslaw.org/index.htm. The individual state law sections provide links to state criminal statutes, which include firearms laws.
- The Pennsylvania Coalition Against Domestic Violence, National Center on Full Faith and Credit maintains a list of State and Territorial Statutes on Firearms and Domestic Violence. [Available from the National Center on Full Faith and Credit, 1-800-256-5883].

CONDITIONS OF PROBATION AND PRETRIAL RELEASE

Conditions of probation are essential tools for protecting public safety, enforcing offender accountability, addressing offender rehabilitation, and monitoring offender behavior. All offenders under the supervision of community corrections are subject to conditions of probation, parole, and pretrial release. Many of these conditions are general conditions imposed on all offenders, typically by the legislature. Examples of general conditions

include obeying all laws, paying restitution, obtaining permission to travel outside the state, maintaining lawful employment, surrendering firearms, abstaining from alcohol and illegal drugs, and reporting regularly to a community supervision officer (del Carmen, et al., 2001). Legislatures also may impose special conditions for offenders convicted of particular crimes (e.g., sex offenders must register with the state and refrain from contact with children) (del Carmen, et al., 2001). Judges or releasing authorities also may impose a set of standard conditions for pretrial release, probation, or parole.

In addition to general or standard conditions, judges and releasing authorities may impose special conditions on individual offenders to address particular circumstances, risks, or needs. Special conditions can address a range of risks and needs and may include, for example,

- requiring treatment for substance abuse,
- participation in a batterer intervention program, and refraining from contacting specific individuals.

As long as a special condition is reasonably related to public safety or rehabilitation of the offender and is clearly stated, reasonable, and constitutional it is likely to withstand a legal challenge from the offender (del Carmen, et al., 2001; Hemmens, 2000).

Offenders under the supervision of community corrections retain their fundamental constitutional rights, which the U.S. Supreme Court has deemed to reside primarily in the Bill of Rights (Hemmens, 2000). Comprehensive discussion of these rights and legal actions probationers and parolees have brought to enforce them can be found in *Civil Liabilities and Other Legal Issues for Probation/Parole Officers and Supervisors, Third Edition (2001)* and *Implementing Effective Offender Supervision Practices and Programming: Legal Issues in Probation and Parole Case Management, 2000* (see Resources). Most special conditions typically imposed on domestic violence offenders do not infringe on fundamental rights, and when they limit those rights (e.g., mandating substance abuse treatment or batterer intervention programs, prohibiting contact or communications with the victim, requiring firearms surrender), the limitations are permissible because they are reasonably related to protecting the victim, preventing future criminal conduct, and addressing the offender's particular rehabilitation needs.

Special conditions must be based on an individual assessment of the levels and types of risks the offender poses to the safety of the victim and others (see chapter 7, guidelines 5-12 and chapter 8, guidelines 13, 17, & 18). Although community corrections officers generally cannot impose conditions of release, they can recommend special conditions to the court to enhance offender accountability and promote victim safety (guideline 13). They also should continually monitor for new risks that warrant additional conditions or modifications of existing conditions (guideline 11), including reports from the victim that indicate increased safety risks. Exhibit 8-A in chapter 8 presents a number of options for special conditions of supervision for domestic violence offenders.

ENFORCEMENT AND REVOCATION

Enforcement

Swift and consistent enforcement of probation conditions and other orders imposed on domestic violence offenders is critical to effective supervision of domestic violence offenders (chapter 8, guideline 22). Chapter 8 provides the rationale for strict enforcement measures and provides detailed implementation strategies. Fair and effective enforcement procedures and practices will enhance surveillance of offender behavior (see discussion of civil liabilities below) and reduce the likelihood that the offender's rights are infringed (Hemmens, 2000). Guide-

line 19 (Community corrections professionals thoroughly document activities, findings, and problems related to case supervision) is important not only for effectively monitoring conditions of probation, but also for ensuring that enforcement actions are initiated in a timely manner and with sufficient evidence. (See exhibit 8-I: Intermediate Sanctions that are Effective with Domestic Violence Offenders in chapter 8.)

Revocation

Offenders under community supervision have a constitutionally protected right to due process in revocation hearings. The leading cases are *Morrissey v. Brewer*, 408 U.S. 471 (1972) (parolees) and *Gagnon v. Scarpelli*, 411 U.S. 778 (1973) (probationers). These cases established the right to both a preliminary and final hearing on revocation. The preliminary hearing can be informal; it must only provide some type of immediate review of a revocation recommendation to determine probable cause for the revocation. The final hearing also may be less formal than a criminal trial, but it must provide an opportunity for the offender to review and contest the facts presented in support of the revocation, and the hearing officer must consider whether the facts presented warrant revocation. The hearing officer must be “neutral and detached,” but need not be a judge or a lawyer (del Carmen, et al., 2001). The offender also has the right to written notice of the alleged violation, disclosure of the evidence against him, an opportunity to confront and cross-examine witnesses (unless the hearing officer specifies why this opportunity should not be allowed), and a written statement of the evidence relied on and reasons for the revocation (del Carmen, et al., 2001).

Subsequent decisions by the U.S. Supreme Court and other courts have fleshed out details about procedural and evidentiary issues, and states have enacted statutes to address revocation proceedings. For example, offenders do not have a 6th Amendment right to a speedy revocation hearing (*Bennett v. Bogan*, 6th Circuit, 1995), but many states have established at least general time limits (not more than 4 months in California; not more than 20 days in Arizona (del Carmen, et al., 2001)). Community corrections professionals should be aware of and take into account several other issues regarding the rights of offenders in revocation proceedings that are reviewed in detail in *Civil Liabilities and Other Legal Issues for Probation/Parole Officers and Supervisors, Third Edition (2001)*. Some of the evidentiary issues that pertain particularly to enforcement of conditions of probation for domestic violence offenders include the following:

- The standard of proof required to prevail in a revocation hearing is significantly lower than in criminal trials, but the standard varies widely among states. How high or low the standard is influences whether an officer has sufficient evidence to initiate a revocation action and may encourage or impede swift enforcement measures.
- The extent to which the testimony of the offender’s community corrections officer will suffice to sustain revocation also varies between states, and where the standard of proof is low, the court is more likely to accept the officer’s account of the violation as sufficient. However, the more evidence/proof the officer can provide from records of interactions with the offender the more likely it is that a finder of fact will revoke probation. (See chapter 8, guideline 19 and commentary.)
- An offender under community supervision has no right to confidentiality of communications with the community corrections officer (*Fare v. Michael C.*, 442 U.S. 207 (1979)).
- Evidence that is obtained during a search that would be inadmissible in a criminal trial under the 4th Amendment’s exclusionary rule may be admitted in a revocation hearing (*Pennsylvania Board of Probation and Parole v. Scott*, 524 U.S. 357 (1998)).
- Offenders’ statements to an officer without a *Miranda* warning may be admissible if the statements were made in the course of a regular meeting even when the officer asks a question that elicited an incriminat-

ing response (*Minnesota v. Murphy*, 104 U.S. 1136 (1984)). Here the offender could have invoked the 5th Amendment privilege to avoid making the incriminating statement.

CONFIDENTIALITY

As noted in the section on revocation, a right of confidentiality between the officer and the offender does not exist. Chapter 8, guideline 19 elaborates this point in advising that officers must be able to document and report accurately any pertinent information about the offender to the court because they have a legal obligation to inform the court or paroling authority of any offender behaviors that violate the conditions of supervision or case plan. To facilitate communications with other agencies or service providers involved in an offender's case plan, officers should have offenders sign information release forms and set up procedures for sharing information among all parts of the system.

This section addresses confidentiality primarily from the perspective of victim safety and the need to hold confidential most information the victim provides to the community corrections officer. Community corrections agencies should establish confidentiality policies regarding victim and offender information and develop appropriate procedures for safeguarding and/or sharing confidential information (see chapter 9, guideline 29 and commentary). These policies and procedures should govern interactions with victims and how officers use information they obtain from victims. Examples of effective, appropriate, and safe communications between officers and victims include the following:

- Ensure that the victim understands any limits to confidentiality of information she provides to the officer (e.g., officers may be mandated reporters of evidence of child and elder abuse and neglect; officers also must document and report further acts of abuse by offender) (Mederos, et al., n.d.).
- Always confirm with the victim what information she does not wish the officer to share with the offender or with the court (Mederos, et al., n.d.).
- To reduce the possibility of retaliation toward the victim by the offender, officers should independently verify information that will be used in sentencing or sanctioning offenders (chapter 7, guideline 12).
- Explain the victim's rights under state and federal laws and regulations.
- Explain what the officer can and cannot do regarding the offender and the victim in the course of supervision (Mederos, et al., n.d.) (See chapter 9).
- Assist the victim in preliminary safety planning, refer her to domestic violence victim advocates for assistance with more comprehensive safety planning, and provide risk assessment information so that the victim can take appropriate safety measures (chapter 9, guidelines 26 and 30).
- Explain the purpose and limits of participation in batterer intervention programs (chapter 10, guideline 37).
- In any discussions with the victim about actions she might take to separate from the offender, ensure the victim understands the risks of violence in response to the separation (chapter 9, guideline 31).
- Contact with the victim should be through the safest means possible and periodic contact should be with the victim's consent only unless the officer needs to warn the victim of escalating risk (chapter 9, guidelines 25 and 27).
- Contact any identified additional victims of the offender or new partners to provide information about the offender that might help them make decisions about their safety (chapter 9, guideline 32).

Chapter 9 presents the rationale and implementation strategies for the guidelines referenced here. The chapter also provides extensive guidance for communicating safely and effectively with victims of domestic violence offenders, including a domestic violence victim probation checklist (exhibit 9-A).

The work that community corrections professionals perform creates the potential for criminal and civil liability for harm caused to victims, offenders, and third parties. These liabilities can arise under federal and state constitutions, federal and state statutes, and the common law. A significant body of statutory and case law also has established a number of defenses for public officers that can shield community corrections professionals from liability. Several resources developed for community corrections professionals provide comprehensive information

*Exhibit 3-A***CHECKLIST OF LEGAL ISSUES****Concurrent or Past Criminal Matters**

- Other criminal matters pending within the local jurisdiction
- Other criminal matters pending in another jurisdiction
- Prior convictions by a criminal court within the local jurisdiction
- Prior convictions by a criminal court in another jurisdiction
- Other orders issued by a criminal court in the local jurisdiction
- Other orders issued by a criminal court in another jurisdiction

Concurrent or Past Civil Protection Orders

- Current protection orders issued by a local court
- Current protection orders issued by a court in another jurisdiction (state, territory, tribe)
- Prior protection orders issued by a local court
- Prior protection orders issued by a court in another jurisdiction (state, territory, tribe)

Current or Past Violations of Protection Orders

- Violation of current order pending in local jurisdiction
- Violation of current order pending in another jurisdiction (state, territory, tribe)
- Conviction for violation of current order in local jurisdiction
- Conviction for violation of current order in another jurisdiction (state, territory, tribe)
- Prior arrests for violating protection orders in local jurisdiction
- Prior arrests for violating protection orders in another jurisdiction (state, territory, tribe)
- Past convictions for violations of protection orders in local jurisdiction
- Past conviction for violation of protection orders in another jurisdiction (state, territory, tribe)

Concurrent or Past Proceedings in Other Courts

- Pending family law matters (divorce, custody, visitation, child or spousal support) in local jurisdiction
- Pending family law matters (divorce, custody, visitation, child or spousal support) in another jurisdiction
- Current orders issued in family law matters in local jurisdiction
- Current orders issued in family law matters in another jurisdiction
- Under supervision through Interstate Compact for Adult Offender Supervision
- Subject to a Military Protection Order

Special Conditions of Probation or Pretrial Release

- Identify risk factors warranting closer monitoring of offender
- Recommend special conditions in sentencing report
- Monitor for new risk factors
- Add conditions as needed while under supervision
- Refer to exhibit 8-A: Options for Special Conditions of Supervision for Domestic Violence Offenders (chapter 8)

Enforcement and Revocation

- Determine standard of proof required to prevail in a revocation hearing
- Determine acceptance of testimony by offender's community corrections officer in revocation proceedings
- Establish system to thoroughly document activities, findings, and problems related to case supervision
- Refer to exhibit 8-1: Intermediate Sanctions that are Effective with Domestic violence Offenders (chapter 8)

Confidentiality

- Notification and discussion of victims' rights under State law
- Notification and discussion of information you can disclose
- Notification and discussion of information you cannot disclose
- Notification and discussion of the scope and limitations of your responsibilities as a community corrections officer
- Ensure that the victim understands any limits to confidentiality of information provided to the community corrections officer
- Confirm with the victim what information the victim does not wish the officer to share with the offender or with the court
- Independently verify information that will be used in sentencing or sanctioning offenders
- Assist the victim in initial safety planning and provide referrals to domestic violence victim advocates.
- Provide risk assessment information so that the victim can take appropriate safety measures.
- Explain the purpose and limits of participation in batterer intervention programs
- Contact any additional victims of the offender or new partners to provide information about the offender that might help them make decisions about their safety.
- Refer to exhibit 9-A: Domestic Violence Victim Probation Contact Checklist (chapter 9)

Firearms

- Check state laws on firearms
- Prohibition on possession of firearms in conditions of probation/pretrial release
- Identification of firearms the offender possesses or can access
- Surrender of weapons and ammunition currently possessed
- Offender signs notice to offender of federal firearms prohibitions
- Offender signs notice to offender of state firearms prohibitions
- Periodic checks of firearms registries

Immigration

- Provision of information to victims of right to self-petition for legal residence status under the Violence Against Women Act
- Referral of victims eligible to self-petition to legal services for representation in the application process
- Referral of victim to community-based service providers that provide services in victim's native language

Child Welfare

- Determine state child abuse reporting requirements
- Determine applicability of Indian Child Welfare Act to offender's children
- Establish relationship with social services
- Determine availability of services for victims and children
- Check local initiatives to address child welfare and domestic violence collaboratively

Persons with Disabilities

- Determine department policies to comply with Americans with Disabilities Act
- Determine if ADA applies to supervision of offender
- Determine if ADA applies to services for victim

Elder Abuse

- Check risk factors for elder abuse
- Determine state reporting requirements for suspected elder abuse

and guidance on the legal liabilities and defenses that apply to the broad range of their responsibilities (e.g., del Carmen et al., 2001 and del Carmen & Bonham, 2001, 2002). These resources are listed in the Resources section at the end of this chapter.

The information presented here focuses on civil liability for harm caused to victims and third parties by negligent supervision of domestic violence offenders. Most claims against community corrections officers for monetary damages are tort actions (Hemmens, 2000). Actionable claims can arise when offenders harm others while under supervision of the community corrections system. To succeed in a tort action, the person bringing the action (plaintiff) must prove four elements:

- The community corrections officer owed a duty imposed by law to the plaintiff.
- The officer breached that duty, either through action or inaction.
- The plaintiff suffered an identifiable harm as a result of the officer's breach of this duty.
- The officer's action or inaction was the proximate cause of the harm to the plaintiff.
-

Under the "public duty doctrine" community corrections agencies and individual officers generally cannot be held liable for the actions of a person under their supervision (del Carmen, et al., 2001). Without this defense, few people would undertake the responsibilities and risks of providing public safety.

Special relationship

An exception to the "public duty defense" raises the potential for a community corrections officer's liability for the harm domestic violence offenders may cause while under his or her supervision. This exception can occur when a "special relationship" exists between the person harmed and the community corrections agency or officer. A special relationship is likely to exist if there is a reasonably foreseeable risk of harm to a particular person or a small group of people (del Carmen, et al., 2001). If a special relationship is found to exist between the person harmed and the community corrections officer, the officer (and the agency) may be held liable for negligent supervision of the offender.

The existence of a special relationship typically is decided case-by-case, but the characteristics of domestic violence cases create a greater likelihood that a court will find a special relationship between the person harmed and the community corrections officer supervising the offender. For example, for domestic violence offenders, the victim of the crime for which the offender was sentenced is an obviously identifiable person the offender could harm again. Others who might be harmed by the offender include (1) members of the victim's family, (2) close friends the offender may view as interfering in his relationship with the victim, and (3) new partners of the offender.

Duty to warn

The duty to warn third parties of harm the community corrections officer should reasonably foresee is the most clearly established source of liability for community corrections professionals (del Carmen, et al., 2001; Hemmens, 2000). The officer's professional training, general knowledge of typical offender characteristics and behaviors, and specific knowledge about a particular offender under his or her supervision raise the level of what is "reasonably foreseeable" harm the offender might cause to third parties. Furthermore, third parties subject to potential harm are more readily identifiable. Therefore, the officer is more likely to have both a special relationship with the person harmed and to owe a duty to protect that person. Two obvious examples of inactions by a community corrections officer that would breach a duty to warn the person harmed are:

- Failure to disclose information about the offender to current or new partners that is pertinent to the person's safety (e.g., existing or subsequent protection orders filed against the offender by another person, probation status of offender to new partner)
- Failure to disclose threats to victims made by offenders to the community corrections officer.

Negligent supervision

With exception of the duty to warn, relatively little case law exists to indicate what other types of actions or inaction might lead to liability for negligent supervision. Some examples of negligent supervision that could possibly result in liability to a person harmed by the offender include:

- Failure to recommend adequate protective measures in conditions of probation or pretrial release (e.g., stay away orders, surrender of weapons)
- Failure to identify new restrictions on the offender that indicate increased danger to others or implicate conditions of probation or pretrial release (e.g., subsequent protection orders obtained by the victim or by another person)
- Failure to identify violations of conditions of probation or pretrial release
- Failure to enforce conditions of probation that govern the offender's conduct toward the person harmed
- Failure to revoke probation or pretrial release when the offender's actions warrant revocation
- Disclosure to the offender of information provided by the person harmed
- Recommendations of actions to the victim without warnings of the possible negative consequences of those actions (e.g., obtaining a protection order, filing for divorce or custody of the children, separating from the offender).

Community corrections professionals can prevent harm to victims and other third parties by consistently considering the goals of victim safety and autonomy and offender accountability in agency policy making and daily decision making. Incorporating the guidelines for practice presented in this manual into department policies and practices should lead to better outcomes for victims, offenders, and the public as well as reduce exposure to liability for agencies and individual professionals.

SPECIAL ISSUES

This section highlights other legal issues that arise with increasing frequency in the supervision of domestic violence offenders. Brief information is presented here to alert community corrections professionals to the potential need to address these issues. Federal and state law may apply to supervision practices related to these issues and community corrections professionals should consult the agency's legal counsel for guidance. Resources that provide further information are listed in the Resources section at the end of the chapter.

Immigration

The immigration status of victims and offenders is a critical factor in the supervision of domestic violence offenders. Victims who are undocumented immigrants often avoid participation in the criminal or civil justice system due to fear that either the offender or victim will be deported. Offenders who are legal residents or U.S. citizens often use the undocumented status of the victim as another tool for coercion and control. Furthermore, the victim may have limited English proficiency, impeding her ability to communicate with justice system professionals. Community corrections officers should consider these factors when working with victims and refer them to legal services and community based organizations that can offer support that is appropriate to the victim's culture and provided in the victim's native language. (See chapter 4: Cultural Competence.) Undocumented victims

who are married to offenders who are legal residents or U.S. citizens may obtain permanent residence through the self-petitioning process authorized by the Violence Against Women Act (see *Immigration Benchbook for Juvenile and Family Court Judges*, Immigrant Legal Resource Center).

Child welfare

Many domestic violence offenders have children in common with the victim, and the safety of these children should be addressed in the supervision of the offender (see chapter 9, guideline 34 and commentary). The desire of the victim to access the criminal justice system may be tempered by her fear that her participation will lead to involvement in the child welfare system, which may cause the victim to lose custody of the children for failure to protect them from the negative effects of domestic violence (see discussion of *Nicholson v. Scoppetta*, chapter 9). Community corrections officers should understand their obligations to report child abuse to proper authorities and clearly communicate this obligation to the victim. In many jurisdictions, collaborations among the juvenile court, child welfare agency, and community-based domestic violence service providers have led to the development of and use of policies and practices that address the safety needs of both the victim of domestic violence and the children (see Greenbook Initiative resources). Community corrections officers also should be alert to the possibility that the Indian Child Welfare Act may apply to any proceedings regarding the out-of-home placement of the offender's children (see National Indian Child Welfare Association and other materials in the Resource section).

Persons with disabilities

Community corrections professionals should be knowledgeable about the requirements of Title II of the Americans with Disabilities Act (Public Law 101-336, 1990), which prohibit discrimination on the basis of a disability in all programs, activities and services provided by state and local government agencies (Nondiscrimination on the Basis of Disability in State and Local Government Services, 28 CFR Part 35). Either the offender under supervision or the victim may have a disability that requires reasonable accommodation under the ADA. For example, a physical disability may limit the offender's ability to participate in mandated programs, such as batterer intervention. Complications in enforcement of certain conditions, such as prohibitions on the use of alcohol or illegal drugs, also may arise because substance abuse may be classified as a disability and may require accommodation. Community corrections officers may need to employ graduated sanctions or provide more detailed documentation than typically is required to initiate enforcement actions. Victims also may need assistance in accessing services provided through the community corrections agency or other justice system agencies (e.g., the prosecutor's office). (See the U.S. Department of Justice web site for further information on the Americans with Disabilities Act at <http://www.usdoj.gov/crt/ada/adahom1.htm>).

Elder abuse

Elder abuse is a growing concern for the justice system. Until recently, relatively little research documented the incidence and nature of elder abuse. Over the past decade, however, research has shown that elder abuse is complex and may include physical, sexual, or emotional abuse; financial exploitation; neglect in providing necessary material items such as food, shelter, or clothing; and withholding medicine or transportation for medical appointments (National Center on Elder Abuse, www.elderabusecenter.org). Accurate statistics on the incidence of elder abuse are difficult to obtain because the definitions of elder abuse vary widely, as does the capacity of state reporting systems. The best available national estimates indicate that one to two million people aged 65 and older have been injured, exploited, or mistreated by a person responsible for their care or protection (Elder Abuse Prevalence and Incidence Fact Sheet, National Center of Elder Abuse, 2005). Community corrections professionals should become knowledgeable about the risk factors for elder abuse as well as understand any local or state requirements to report elder abuse.

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- Pennsylvania Coalition Against Domestic Violence, National Center on Full Faith and Credit. State and Territorial Statutes on Firearms and Domestic Violence. Available from the National Center on Full Faith and Credit, 1-800-256-5883.
- Project Safe Neighborhoods at <http://www.psn.gov/>.
- The Greenbook Initiative at <http://www.thegreenbook.info/demo.htm>.
- The Miles Foundation at <http://hometown.aol.com/milesfdn/myhomepage/index.html>.
- The Tribal Law and Policy Institute at www.tribal-institute.org.
- Women's Law Initiative at www.WomensLaw.org.



CHAPTER FOUR

CHAPTER FOUR

Culture and Domestic Violence

CULTURE

Every person belongs to a constellation of groups with varying cultures. Offenders, victims, and community corrections personnel all are affected by cultural influences. Culture consists of the values, beliefs, experiences, and traditions shared by a group of people. These shared resources are passed socially—and usually informally—among the members of the group. An individual brings unique biological and psychological traits to a culture, but they are also shaped by the shared culture of the group. Culture affects one's understanding of human nature, time, activities, and social relationships (Arnoff, 1999, as cited by Shearer & King, 2004). People identify with numerous groups that in combination create a culture for that individual. These groups may include any of the following as well as many others:

- Family
- Race
- Ethnicity
- Socioeconomic class
- Gender
- Age
- Sexual orientation
- Religion
- Community or neighborhood
- Geographic region
- Physical ability
- Country of origin
- Language
- Immigration status
- Work environment

All of these cultural groups overlap, so that each person's cultural milieu consists of layered interactions. The individual shares many characteristics with other people in a particular cultural group to which he or she belongs, but certain aspects of his or her cultural make-up may be outside the experiences of some other members of a group. For example, a person may share the same race, socioeconomic status, neighborhood, and language with many other people, but he or she might also have characteristics in common with other groups because of traits such as age, sexual orientation, or religion.

One's cultural context affects interpersonal relationships and the purpose and meaning of language and behavior that is exchanged between people. Those who speak or act do so with a particular purpose or intent that is often culturally influenced. Simultaneously, those who see or experience another's behavior or hear the other person's words, ascribe a meaning to them based on their cultural experiences. Because language and behaviors are viewed through a cultural lens, they can be interpreted differently by people with other cultural experiences.

THE INTERSECTION OF CULTURE AND DOMESTIC VIOLENCE

Community corrections professionals must continually strive to be aware of the intersection between various cultural influences and domestic violence and to intervene in ways that are sensitive to others' cultural experiences. Intimate partner violence is always unacceptable, and justice system professionals should never allow culture to be used as an excuse for perpetrating domestic violence crimes. Regardless of the cultural affinities of offenders, victims, community members, or community corrections professionals, a consistent message promoting victim safety and offender accountability must be conveyed by community corrections professionals' words and actions.

Domestic violence occurs within cultural contexts that allow or condone violence. Violence exists because some people believe they are entitled to have what they want by exerting physical, sexual, emotional, and economic control over others.

Domestic violence perpetrators have diverse cultural backgrounds. Although their behavior toward their partners may be violent in similar ways, they justify their conduct in different ways and their patterns of psycho-logical abuse and intimidation vary.

Similarly, they have different models of functional and respectful relationships that are culturally derived. All cultures have traditions, practices, and values that facilitate domestic violence, and they also have traditions, practices, and values that facilitate respectful and functional intimate relationships. Life background issues, such as poverty, immigration, and exposure to oppression and various forms of violence are more common for people from some groups, complicate the change process for domestic violence perpetrators who have had such exposure, and can act as an obstacle in the change process and in the achievement of responsibility and safety. Community corrections officers who understand these factors can learn to target their interventions more effectively and strategically with different perpetrators.

In some cases victims of intimate partner violence also accept and act upon cultural messages that indicate that because they are women, poor, belong to a racial minority, or are a member of a religious organization they should comply with the privilege and entitlement others have assumed. This is not to suggest that victims are to blame for the violence that is perpetrated upon them. However, they are members of cultural groups in which these messages prevail. Therefore, they may feel conflicted about asserting their rights against their abusers, or that the abuse is the sole responsibility of their abusers.

Values

Cultural or religious groups may hold values around family, sex roles and community integrity that can create additional pressures on women who are abused. Also, many abusers will prevent women who are abused from participating in faith-based activities, thus perpetrating another method of control over her. However, membership in a particular cultural or religious group can also be a source of strength for women who are abused by providing support or services that are more appropriate to a woman's cultural or religious affiliation than those available through the mainstream service system.

Disabilities

For many women who are abused who are living with disabilities, services are often inadequate and/or inaccessible. Resource materials are rarely available in alternate formats (Braille, large print, audiotape); buildings where services are delivered may be physically inaccessible to women in wheelchairs; transportation may be unavailable to women with physical disabilities; and access to a sign language interpreter, a TTY, or volume control phones for women who are deaf or hard of hearing may be limited.

Sexual Orientation

There is also a lack of discrete services for lesbians, gay men, bisexuals, and trans-gendered individuals who are abused by their partners. These individuals who are abused and who seek help may face disclosure of their sexual orientation to those to whom they are not "out," exposure to institutionalized heterosexism (e.g. the assumption that everyone is heterosexual), negative attitudes about their sexuality and identity from "helpers," and fewer legal options than victims of domestic violence who are heterosexual (State of New York, 1998).

Elder Victims

Older women who are victims of domestic violence often face additional barriers to finding safety and support. They may not identify themselves as abused (images of women who are abused on television and in movies are typically those of younger women, leaving society and older women with the impression that domestic violence does not occur later in life). They may be in fear of the consequences of intervention, including appearing in court, leaving their homes, being placed in nursing homes, and/or having their decision-making rights taken from them by service providers. Also, life stresses and changes such as the death of family or friends, the birth of grandchildren, retirement, and moving may play a role in some women's decisions to stay with their abusers. Many older women face financial insecurity (especially if they have no formal education or economic resources) or health problems, and are afraid of losing insurance if they are on their abusers' policies and/or have uninsurable pre-existing conditions (NYS OPDV, 2000).

Immigrants

Women who are abused who are immigrants should be encouraged to talk to both a domestic violence advocate and an immigration expert. Immigration law allows criminal justice officials to deport both legal and undocumented abusers for conviction of a felony or violation of an order of protection. However, women who are abused may or may not want the abuser deported, and face varied risks if deportation/removal proceedings are initiated or the abuser is deported. For example, she may also face removal proceedings if the abuser is her sponsor.

Language Barriers

The offender, family members, children, or friends should never be allowed to translate for a woman who is abused, witnesses, or other people who have knowledge about the case. A court-approved interpreter must be used, and is required by federal law, if the community corrections professional is not fluent in the language of women who are abused, probationers, parolees, or witnesses.

Rural

Women in rural communities frequently experience isolation specific to a lack of public transportation, physical distance from neighbors, and a lack of anonymity common in a small-town community. It is also common in rural communities for family members of both women who are abused and domestic violence offenders to work together or have other direct connections with domestic violence cases, creating additional barriers for women who are abused and potentially reducing the likelihood of accountability for offenders.

Those who serve a regulatory role in society also bring a cultural heritage with them. Frequently their values, norms, lifestyles, roles, and methods of communicating are different from those of the criminal justice system's clients (Shearer & King, 2004). Lawmakers, criminal justice system professionals, religious leaders and others may be in the position of intervening in domestic violence whether at the macro or individual level. They, too, have layers of cultural experiences through which they view others' behavior. The cultural heritage of community corrections professionals can result in external and internal dissonance for them as they work with domestic violence cases and issues.

There are many ways in which culture intersects with domestic violence. A few examples are provided in exhibit 4-A (next page) to illustrate these.

Just as culture intersects with domestic violence to produce different meanings for various groups and individuals, cultural interpretations and behaviors also influence the criminalization process. The meaning of arrest, sentencing, and corrections varies markedly among subcultures. Thus, the attitudes and behaviors of offenders toward criminal justice processes and professionals are often affected by their cultural grounding.

Many cultural practices and meanings are embedded, taken for granted, and long-lasting. Yet, cultural characteristics are not necessarily static; rather cultures are always in transition. Both individuals and groups make changes in their values, beliefs, and traditions over time. For example in recent years cultural shifts have occurred in smoking and driving practices (e.g., no smoking in public places, seat belt use) that have resulted in improved health and safety of the public in general and of those at particular risk for the deleterious effects of tobacco use and vehicle crashes. While some individuals and groups still cling to individual rights to choose to smoke or not use seat belts, many have changed these habits. Many changes like these are prompted by scientific knowledge that has led to changes in laws making specific acts illegal. Legal changes then foster social change and acceptance of different cultural values. Such modifications in the cultural acceptance and justification of domestic violence are also occurring slowly.

*Exhibit 4-A***EXAMPLES OF THE INTERSECTION OF CULTURE AND DOMESTIC VIOLENCE**

- A victim or offender may go through the entire criminal justice system without encountering any police officers, judges, prosecutors, or community corrections professionals who are from their culture.
- A man subscribes to a belief that he attributes to his culture that males are superior to females and are entitled to have their needs met as they wish, which includes physical, sexual, emotional, or economic control of women.
- A woman living in a small town does not report abuse to authorities because her cultural experiences have taught her that family matters are private and she is aware that information shared with authorities in her town often becomes public knowledge.
- A woman in a rural community lives 75 miles from the court, and is afraid to call the police because her husband knows two of the officers.
- A man who has abused his intimate partner has been taught by his culture to value the role of father, and he is willing to change abusive behavior and thinking patterns to become a better parent.
- A woman has been taught by her faith community that divorce is unacceptable and she should submit to the directions of her husband and church leaders.
- A domestic violence victim has seen others from her neighborhood or racial group mistreated by authorities, and because of these perceived injustices, she declines to cooperate with these authorities to stop the abuse that is being perpetrated on her.
- People of higher socioeconomic means have options for responding to family problems (e.g., divorce, private attorneys, relocation) that may not be available to people of lower socioeconomic levels.
- The abuse of a lesbian, gay man, bisexual or transgendered individual may be seen as “mutual abuse” by the police or courts, and thus, the victim does not get needed information, resources, or support. For example, a man who is the victim of intimate partner violence is not taken seriously by authorities to whom he reports the abuse because men are traditionally viewed by those in authority as having sufficient strength to defend themselves. A lesbian may not be considered to be in “real” danger because her abuser is a woman.
- If a victim knows only a few words of English, it may be hard for her to contact the police, an attorney, or a domestic violence program.
- An immigrant woman who is abused fears deportation if she calls the police.
- A woman who is abused who has a disability may be seen to be less capable of caring for her children than the abuser, and may lose custody of her children.
- A 78-year-old woman who wants to leave her abusive husband doesn’t call the police, because in her generation, the police did not intervene in domestic violence.
- An older woman whose abuser is also her caregiver is afraid that she will be placed in a nursing home.
- A community corrections professional becomes frustrated with a domestic violence victim who recants her accusations and actively interferes with the officer’s attempts to collect needed information about the offender’s compliance with court-ordered supervision conditions.

(Portions adapted from Family Violence Prevention Fund, 1999)

CULTURAL SENSITIVITY

To be most effective in addressing the needs of victims, offenders, and communities, community corrections agencies and professionals should be culturally sensitive and should strive to be culturally competent. Building a culturally competent organization and becoming a culturally competent professional is an ongoing process that requires development of values, principles, behaviors, attitudes, policies, and structures to work effectively cross-culturally.

Caple, Salcido, and di Cecco (1995) articulated four principles for developing culturally competent practice. These are adapted below and should be infused throughout the policies, administration, practices, and service delivery tasks of the agency.

- There is no single American culture. America's social fabric is woven from multicultural environments. The United States is a place where many cultures commingle and interact.
- Members of each cultural group are diverse. Although it can be helpful to know the history and current situation of a cultural group, one cannot rely totally on this knowledge for working with a specific victim or offender. There are probably as many differences within cultures as between them. For example, many people are grouped as being from a Hispanic, an Asian, or a Native American culture, but they may come from many different countries or nations, speak multiple languages, and have a large range of cultural traditions. Within the United States, there are differences between recent immigrants and those who are of a second or third generation of family members in this country. Second and third generation descendents of immigrants often straddle multiple cultural groups and identities. Indeed, many people have their feet firmly planted in both the dominant culture and various subculture groups. It is important to explore with each person the meaning of his or her life experience and present situation including instances of oppression and the extent of acculturation into the dominant culture.
- Diversity should be acknowledged and prosocial differences should be appreciated. Acknowledgement and acceptance of others' values and behaviors that are different from our own is important for building relationships for true communication.

Modification of one's cultural perceptions is a dynamic process. As victims, offenders, and professionals commingle with members of cultural groups that are different from their own, they will learn more about others' beliefs and practices and may change their responses to them, if they are open to doing that.

Cross et al. (1989) developed a continuum of cultural competence describing the range of possible responses to persons from cultures differing from the practitioner's. These are shown in exhibit 4-B.

Culturally competent professionals need to be able to generate a variety of responses to individual victims and offenders based on their multicultural knowledge and awareness (Shearer & King, 2004). Community corrections offender populations and professionals across the United States are much too diverse to try to provide prescriptive information for responding effectively to each given cultural influence that may be present. However, agencies and professionals can take recommended steps to achieve cultural competence (Shearer & King, 2004, p. 8) including:

- Develop awareness of the predominant philosophical schemes of the cultures of offenders and victims. This includes their views of life and death, conflict resolution, and individual versus family control.
- Maintain true respect and empathy for the other person's culture, accepting it as valid in its own right and equal in status to the customs of the dominant culture. Empathy involves understanding others' perspectives even though these perspectives vary from one's own.

Exhibit 4-B

LEVELS OF CULTURAL COMPETENCE

<p>Cultural Destructiveness</p> <p>Attitudes, policies and practices are destructive to other cultures and their members.</p>
<p>Cultural Incapacity</p> <p>Systems or agencies lack the capacity to help, but are not intentionally destructive to other cultures.</p>
<p>Cultural Blindness</p> <p>Attempt to treat all people alike. Color and culture do not make any difference, and services are culturally neutral. Thus, services often are not relevant to most of the participants.</p>
<p>Cultural Pre-competence</p> <p>Individuals or agencies realize weaknesses in cultural competence and attempt improvement. There is a risk that minimal movement or token change may be viewed as sufficient.</p>
<p>Cultural Competence</p> <p>Others are accepted and respected for their differences. Cultural knowledge is constantly expanding. Staff members committed to particular cultures are hired. Staff members are supported in gaining knowledge and comfort in working in cross-cultural situations. Policies are sensitive to different clients and enhance appropriate services.</p>
<p>Cultural Proficiency</p> <p>Different cultures are esteemed. Research is conducted and new therapeutic approaches appropriate for particular cultures are developed. There is advocacy for cultural competence and professionals work to improve relationships among cultures through the system and society.</p>

Source: Cross, Bazron, Dennis, & Isaacs, 1989

- Maintain an awareness of one's own limitations; be open to human differences and enthusiastic about these differences.
- Admit what is not known about the offender or victim and request cultural information and seek the other's view of the crime, community corrections process, and the criminal justice system.

With the framework that has been presented in this chapter concerning the role of culture in domestic violence and the importance of cultural competency, practitioners can pursue efforts to identify cultural groups among their populations and learn specific ways of adapting practices to meet their needs more readily. Additional information on working with diverse cultures and special populations are provided in guidelines 4 (chapter 6), 21 (chapter 8), and 39 (chapter 10).

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CHAPTER FIVE

CHAPTER FIVE

Core Goals for Implementing the Guidelines

Specific goals and principles steered the development of the guidelines in this document, and it is crucial for community corrections professionals to understand these as the basis for the following chapters. Three goals provide the ultimate purpose for implementing these guidelines, and five fundamental principles articulate the practice assumptions that formed a foundation for the guidelines.

GOALS

Victim Safety and Autonomy

Victim safety is the primary goal around which all else must operate when conducting community supervision of intimate partner domestic violence offenders. Only when the abuse ends will victims have the freedom to make decisions and engage in activities that allow them to experience autonomy and maintain their safety and well being without the batterer's abusiveness. Victims are entitled to be safe—as everyone should be—and are not responsible for the violence and abuse perpetrated against them.

Victim autonomy implies the victim is capable of making decisions for herself about her life and achieving self-sufficiency. It means giving her information, and supporting her decisions for herself and any children she may have. Autonomy involves providing victims with information about their options so they can choose to empower themselves. It also implies that a victim may choose among many options (e.g., remaining in the relationship, separating), and her decisions should be respected even if they are not the same choices others think they would make if in her situation. Autonomy implies that decisions made by community corrections should be discussed with the victim; therefore, officers should have contact with victims, if victims are receptive to contact.

Community corrections professionals should respect a victim's viewpoint and her judgment about her situation at any particular time even if they do not fully understand or agree with a victim's choices. For example, victims' decisions to remain with or return to their abusers must be respected. They make these choices for various reasons, and their decisions must be understood in the context of victims' particular circumstances. For many women, remaining or returning to their abusers is the safest choice they can make. Such a perspective of respect is vital for fostering victim autonomy and preventing frustration and victim-blaming by community corrections professionals. Failing to demonstrate respect for victims (e.g., blaming victims, focusing on her behavior rather than the abuse) often is counterproductive and turns victims away from the help and support they may be able to gain from community supervision personnel. A victim's decision that she does not want contact with the justice system does not absolve community corrections personnel of the duty to promote victim safety. Community corrections officers can express their concerns about the safety of victims and their children. They can hold offenders accountable for disregarding supervision conditions that may place victims at greater risk, such as abusing substances and violating protective orders. Community corrections professionals will need to report certain information to the court or releasing authority, but they should always inform victims in advance that some types of information cannot be maintained confidentially.

AUTONOMY AND EMPOWERMENT

Autonomy is considered the ultimate goal for a victim of domestic violence. Autonomy places emphasis on the victim and considers her the decision maker.

Empowerment denotes enabling people to master their environments and achieve self-determination. Empowerment is the process of giving power to someone else. It is empowering to victims to be believed and to be afforded opportunities for input and control in decisions that affect their safety and welfare, but ultimate power is retained by the other person. Autonomous victims have power; victim empowerment is the process of obtaining autonomy.

Exhibit 5-A summarizes some ways community corrections professionals can empower domestic violence victims. An adult woman may make choices that officers think are not in her best interest, but they must continue to work for victim safety and autonomy even if they feel frustrated by victims who make decisions with which they disagree. The officer needs to listen, reflect, and receive information from victims to inform his or her decisions about the case. However, officers cannot simply provide information to victims and walk away; they must still make decisions consistent with legal issues, agency policy, and case plans even when these are contrary to victim choices. Additionally, officers should refer victims to domestic violence advocates for confidential services.

Exhibit 5-A

WAYS TO PROMOTE VICTIM SAFETY AND AUTONOMY

Respect Confidentiality: All discussion must occur in private, without other family members present. Advise her if information must be reported.

Acknowledge Injustice: The violence perpetrated against the victim is not her fault and is unacceptable.

Respect Her Autonomy: Respect the victim's right to make decisions in her own life. She is the expert in her life.

Promote Access to Community Services: Know the resources in your community and make the appropriate referrals.

Refer the Victim to a Domestic Violence Victim Advocate: An advocate can help her develop a safety plan and access other needed services.

Validate Her Experiences: Listen to the victim and acknowledge her feelings.

Adapted from Maricopa County, Arizona, Adult Probation Department Domestic Violence Unit

Offender Accountability

Domestic violence is a deliberate act by the offender. In the overwhelming majority of cases, domestic violence offenders choose to engage in violent and controlling behavior, and the focus of community supervision of these offenders should be holding them accountable for their behavior, promoting changes in their behavior, and fostering the safety and autonomy of their victims. Pretrial release, probation, and parole are privileges, not rights (when compared to the alternative of incarceration), and offenders extended these privileges should be held accountable for their behavior and their compliance with the conditions of their supervision. While victim safety is the primary goal of community corrections' efforts in domestic violence cases, offender supervision and accountability is the primary means for achieving that goal. Community corrections resources should be used to provide offenders with options that will allow or compel them to change their behavior and thinking patterns, but they must be held accountable if they continue to act in controlling and abusive ways. The approaches used with domestic violence offenders must be appropriate to achieve this goal, including the imposition of appropriate conditions of supervision and stringent enforcement of those conditions.

Offender Intervention

The primary focus of offender interventions (including both community corrections supervision and other interventions) should be holding offenders accountable, and promoting the offender's change of his abusive behaviors and thinking patterns, with the goal of stopping the abuse. Interventions include a variety of activities and processes to accomplish these goals. Batterer programs are discussed in detail in chapter 10, and they are an important, but not sufficient, means of intervening and holding offenders accountable. Intervention should address the value-based thinking of the offender that allows him to believe that abusive behavior is acceptable. Individual problems and disorders, such as substance abuse and mental health problems, should also be identified, and appropriate treatment for them should be provided. Treatment for substance abuse and mental health problems should be considered primarily as components of the case plan to achieve victim safety rather than solely as rehabilitation for the personal difficulties of the offender. All interventions should be carefully integrated and managed by community corrections to focus primarily on victim safety and offender accountability.

PRACTICE PRINCIPLES

The three primary goals of intervention provide the purpose and direction for working with domestic violence cases. However, there are five important principles that provide a foundation for practice and must be woven through each strategy that is undertaken to achieve these goals.

Principle #1: Case Intervention is Victim-Focused

To achieve the primary goal of victim safety, community corrections must change its traditional offender-centered approach to a victim-focused strategy that fosters safety through offender accountability and changes in offender behavior and thinking patterns. This may constitute a fundamental change for community corrections and requires continuing attention to the realignment of goals and strategies for this work.

Principle #2: Abusive Behavior is the Responsibility of the Offender

An offender's choice to perpetrate domestic violence and his capacity to stop domestic violence are completely independent of the actions of others, including the victim. No excuses for abuse are acceptable (e.g., substance use, stress, childhood victimization). Therefore, community corrections interventions, while focused on victim safety, should promote offender accountability and behavior change through the application of legal and social sanctions for his abusive behavior.

Principle #3: Consider Unintended Consequences

Unintended consequences that are detrimental to victims can occur during the supervision of domestic violence offenders. An overriding precaution during supervision should be, “Assure no remedy causes further harm.” Responses to domestic violence must be crafted carefully to avoid inadvertently placing victims in greater jeopardy. Many commonly used referrals and services are safe and appropriate for many victims of crime. However, several of these same practices are dangerous for women who are abused. Specifically, women who are abused should not be referred to or be encouraged to participate in services in which they must cooperatively participate, such as couples therapy, marriage and family counseling services, or alternative dispute resolution and mediation services (State of New York, 1998).

Unknowingly engaging in practices that might increase risks to victims should be averted by investigation and consideration from all possible perspectives. For example, community corrections officers should be cautious about insinuating that victims separate from their abusers, as leaving might increase victims’ danger. Offenders’ violations of supervision conditions should be pursued with awareness of potential consequences, and evidence of violations should be gathered from sources other than the victim. This does not mean that conditions of offender supervision should not be enforced vigorously. Rather, there may be choices in strategies, and some may provide greater protection for victims than others. This principle underscores the importance of collaboration with domestic violence victim advocates and communication with victims in designing community corrections responses to domestic violence.

Mediation, couples and marriage counseling, conflict resolution, and many Restorative Justice practices are dangerous for women who are abused.

Principle #4: Employ Evidence-Based Practices

Considerable research has been conducted during the past few decades on effective interventions in community corrections. One of the primary bodies of research is the “What Works” literature. This summarizes evidence-based practices that have been shown effective in reducing recidivism. The Crime and Justice Institute (n.d.) presents eight evidence-based principles of effective community corrections practice, stating that these have definable outcomes, are measurable, and have practical realities (such as lower recidivism rates). In contrast, best practices are based on the collective experience and wisdom of the field rather than scientifically tested knowledge.

The eight evidence-based principles for effective interventions are shown in exhibit 5-B. Research on domestic violence in general is relatively recent when compared to community corrections research generally, and studies of community corrections strategies for domestic violence cases are still sparse. However, agencies and professionals must strive to stay abreast of emerging research and incorporate valid findings into practice as quickly as possible.

*Exhibit 5-B***EVIDENCE-BASED PRACTICES FOR COMMUNITY CORRECTIONS**

1. Assess actuarial risks and needs. Both individual and aggregate offender risk levels and needs should be measured based on research evidence of risk and need factors that have the greatest bearing on recidivism.
2. Enhance Intrinsic Motivation. Motivational interviewing techniques can be used to help offenders overcome their ambivalence and enhance motivation for beginning and sustaining prosocial behavior changes.
3. Target Interventions. Community corrections resources and interventions should be used where evidence suggests they will make the most difference.
 - Risk Principle. Resources and interventions should target offenders with the highest risk of reoffending.
 - Need Principle. Criminogenic needs should be prioritized, and offender services should focus on the greatest need areas.
 - Responsivity Principle. Offenders should be matched to the most appropriate service based on characteristics such as culture, gender, motivational and developmental states, learning styles, and offense type.
 - Dosage. Forty to 70 percent of offenders' free time in the community over a three to nine month period should be occupied with structured routines such as outpatient treatment, employment assistance, and education.
 - Treatment Principle. Take a proactive and strategic approach to supervision and case planning. Delivering targeted, longer rather than shorter, and timely treatment interventions to high-risk offenders provides the greatest long-term benefits to the community, victim, and offender.
4. Skill Train with Directed Practice. Programming should emphasize cognitive-behavioral strategies and reinforce prosocial attitudes and behaviors.
5. Increase Positive Reinforcement. Behaviorists have determined that a ratio of four positive reinforcements for every negative reinforcement should be applied to achieve sustained behavioral change. However, when sanctions are needed for unacceptable behavior they should be swift and certain.
6. Engage On-going Supports in Natural Communities. Recruit and use family members and other supportive individuals in the offender's immediate environment to reinforce desired behaviors. [Note, however, that victim safety should be the primary consideration for this practice in domestic violence cases.]
7. Measure Relevant Processes and Practices. Routinely assess offender change in cognitions and skills and evaluate offender recidivism. Staff performance also should be assessed regularly.
8. Provide Measurement Feedback. Use measurements to monitor processes and needed changes. Provide feedback to offenders regarding their progress. Similarly, service delivery should be monitored and the results used to make needed changes.

Crime and Justice Institute (n.d.)

Research findings support most of the guidelines recommended in this document, and where possible, suggested practices have been linked with the “What Works” principles. In most instances, the evidence-based practices for community corrections and those for domestic violence supervision are in accord, although some vary in implementation strategies. In some cases, practice strategies suggested for particular guidelines in this document are considered “best practices” and have been implemented by agencies and professionals, but do not have research findings that support them. Although there is anecdotal evidence of their effectiveness, little systematic research attests to their efficacy. This is an area of scientific investigation that must grow to assure the field that the best possible strategies are being used to foster victim safety, offender accountability and offender behavior change.

Part of this process is the development of effective program evaluation by local community corrections agencies. Programs need to be gathering data on their practices and making comparisons between cases receiving specialized domestic violence supervision and those receiving regular supervision (e.g., demographics, risk factors present, interventions applied, periods the offender is not abusive, length of sobriety).

Principle #5: Hold Practitioners and Organizations Accountable

While offender change and accountability are essential components of the response to domestic violence, the justice system and society also need to change and hold themselves to higher standards of accountability and expanded roles in confronting domestic violence. The justice system should be part of a larger concept of social justice that works to stop oppression of women and violence toward intimate partners. Agencies and professionals should be aware of and vigilant about correcting individual, institutional, and justice system biases that blame victims for offenders' violence and abuse, are more punitive to marginalized groups or individuals, or taint the opinions of and the provision of services to either victims or offenders. Further, practitioners should implement prevention strategies such as identifying domestic violence offenders and victims and conducting education campaigns.

The allocation of resources demonstrates priorities. Sufficient resources (e.g., time, money, staff) should be committed to domestic violence cases to demonstrate that victim safety and offender accountability are meaningful principles in community corrections practice.

Offender accountability and system responsibility should be part of a coordinated community response to domestic violence. Written policies and protocols for all parts of the justice system should be developed collaboratively. Mechanisms to prevent breakdowns in communication should be included in working agreements, and agencies and professionals should be challenged and held accountable for lack of follow-through within the system. Cooperation necessitates openness among system components to allow others to view their goals and operations and to establish effective lines of communication for sharing pertinent information among systems. Both individual community corrections officers and other participants in the system should be held accountable for their decisions. For example, when cases are returned to court for violations, judges should impose appropriate sanctions. Strategies should be in place to eliminate manipulation or misuse of the justice system by intimate partner domestic violence perpetrators who may, for example:

- attempt to retaliate against their victims through groundless child custody challenges,
- file false reports with child protective services agencies, and
- file for protection orders against their victims.

INADVISABLE PRACTICES FOR DOMESTIC VIOLENCE CASE SUPERVISION

Several practices that have merit for traditional case supervision are inappropriate in cases of domestic violence because they pose additional risk to the victim. In some instances research has shown practices to be inappropriate, other practices are inconsistent with prevailing philosophies of domestic violence, and still other practices are contested with opinions and research that does not clearly delineate the best approach to take. A few of the ill-advised or contentious supervision practices are discussed briefly below.

Couples Therapy

Couples therapy is a counseling strategy that is often recommended for troubled intimate relationships. However, when the members of the couple do not have equal power in the relationship, this approach may be dan-

gerous for victims. If the victim is honest and engages in negotiation (an underlying assumption of this approach), she places herself in jeopardy of further abuse from a batterer who is controlling and may inflict reprisals on her outside of the counselor's presence. This approach also places equal responsibility on partners for contributing to the reasons for the problem, which in the case of domestic violence, places blame on the victim for the abuse which is perpetrated by the offender.

Anger Management

Some people react to stressful situations with anger, but for domestic violence offenders, anger is only one targeted strategy used to control their partners. Victims are often blamed by offenders for causing their anger. Anger management programs inappropriately suggest to the offender that anger is the cause of the violence when, in reality, domestic violence is a much more complex issue and a deliberate choice. It focuses on violent acting out fueled by reactive emotional response rather than purposeful behavior motivated by power and control. Addressing an offender's displays of anger may be an important component of an intervention strategy, but programs should not be limited to this single aspect of intimate partner violence behavior and fail to address underlying issues of power, control, and entitlement. If offenders are referred to anger management programs, victims may mistakenly assume offenders are receiving the help they need to stop their abusiveness, and the victims may discontinue their safety precautions. This, in turn, may actually increase their risk.

Diversion

Helpful and innovative programs have emerged in recent years to divert first-time and minor offenders from the criminal justice system. These are beneficial to offenders in allowing them to avoid having criminal records, and the justice system averts the influx of many cases that have a low risk for recidivism and may not benefit from more expensive correctional services. However, diversion is not recommended for domestic violence cases. It is rare that a domestic violence offender who is arrested and processed through the justice system for the first time is actually a first-time offender. Usually offenders have committed many prior acts of abuse before they are ever arrested. It is also important to hold offenders accountable for their behavior and monitor their compliance with conditions of supervision and intervention programs. Thus, pressing formal charges and having offenders participate in correctional programs can send a strong message to offenders and victims that domestic violence is unacceptable and will be handled in a serious manner by the justice system.

Some Restorative Justice Practices

Restorative justice is a philosophy that guides much of corrections work today by setting forth a clear set of values and a vision for responding to harmful behavior. Restorative justice views crime as a violation of people and their relationships with each other. It affects three parties—victims, offenders, and communities. When victims and communities are harmed by crime, they should be restored. Offenders, thus, are obligated to make things right as much as possible. Communities also are obligated to promote the welfare of all their members, including both victims and offenders. Restorative justice practices attempt to heal victims and communities, to the extent possible, when they have been injured by crime. According to this perspective, victims' needs for information, validation, vindication, restitution, testimony, safety, and support are crucial, and they should be given opportunities for exchange of information, participation, dialogue, and involvement in problem solving. At the same time, offenders' needs and competencies must be addressed. The justice process and solutions to crime belong to the community, rather than just being the purview of justice professionals (Zehr & Mika, 1997).

While the restorative justice philosophy represents an important perspective in addressing criminal behavior, not all practices associated with restorative justice principles are appropriate in cases of intimate partner domestic violence. Corrections practices should not try to *restore* relationships between abusers and victims of domestic violence. For example, victim-offender mediation could place domestic violence victims in greater danger because mediation is based on the premise of equal partners entering into discussion to reach agreements, and the power relationships between partners in which domestic violence occurs are not equal. The use of community panels or boards to determine offender supervision similarly could place domestic violence victims in greater peril, as those serving on such panels or boards may not understand thoroughly the dynamics of domestic violence and might unintentionally recommend actions that jeopardize victim safety.

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CHAPTER SIX

CHAPTER SIX

Guidelines for Professionalism and Ethical Practice

GUIDELINE 1:

Community corrections programs and professionals develop active partnerships with domestic violence programs and advocates and other justice system and community organizations and personnel working with offenders or victims to better understand domestic violence and unite in common efforts to promote victim safety.

GUIDELINE 2:

Community corrections professionals engage in ongoing learning opportunities on domestic violence.

GUIDELINE 3:

Community corrections professionals maintain high standards of professional integrity and consciously avoid unintended reinforcement of domestic violence.

GUIDELINE 4:

Community corrections professionals are knowledgeable about and capable of working with offenders, victims, community members, and other professionals from diverse cultural backgrounds.

GUIDELINE 1

Community corrections programs and professionals develop active partnerships with domestic violence programs and advocates and other justice system and community organizations and personnel working with offenders or victims to better understand domestic violence and unite in common efforts to promote victim safety.

RATIONALE

Domestic violence is a social, health, and justice system problem that cannot be resolved by a single person or agency. Limited research has been conducted to compare recidivism rates for domestic violence offenders in jurisdictions with coordinated systems to those in jurisdictions without such coordination. However, the research has found that programs addressing offenders are most likely to be effective when conducted in conjunction with coordinated, communitywide efforts (Saunders & Hamill, 2003). Studies have found arrest combined with prosecution and/or batterer programs is more effective than any of these used singly (Steinman, 1990, 1991; Syers & Edleson, 1992). Murphy, Musser, and Maton (1998) found that increased offender involvement with prosecution, probation, and counseling was related to reduced recidivism. Shepard, Falk, and Elliott (2002) found that sharing information among agencies regarding danger assessment was useful in reducing recidivism. Several studies also have found that periodic court reviews improve batterer intervention program compliance (Gondolf, 1997). From this research, coordinated interventions appear to have a modest but cumulative effect of lowering recidivism rates of domestic violence offenders and thereby improving victim safety (Babcock & Steiner, 1999; Murphy et al., 1998).

All jurisdictions and agencies must work continually toward building and improving alliances to foster victim safety and offender accountability. Even when formal coordination is nonexistent or only in the early stages of development, there is much that can be done to form relationships with allies in other agencies during case management to ensure cooperative and collaborative efforts.

Collaboration helps achieve mutual goals that cannot be achieved by one agency or individual working alone. The foundation of collaboration involves sharing knowledge, information, resources, power, and decision-making so that individuals and organizations may work together to achieve a significant positive impact in their community and a more consistent response to domestic violence (Piercy, 2000).

King County (Seattle), Washington, uses a coordinated response to domestic violence and recognizes the following advantages of collaboration with domestic violence advocates, other justice system agencies and personnel, and community-based programs (Responding to Domestic Violence: A Coordinated Approach, n.d.):

- Collaboration gives a consistent message to perpetrators and victims.
- Domestic violence cases are scheduled on a “fast track” through the court process that eliminates delays and continuances.
- Coordination builds a culturally diverse response that lowers some of the traditional barriers to services often experienced by victims.
- Collaborative efforts relieve the frustration of service providers who work with domestic violence cases.

Sadusky (n.d.) wrote, “Isolation is a central experience in battered women’s lives. It is a key tactic of control used by men who batter and it is a barrier built by the community which allows the violence to continue” (p. 4). A

TERMINOLOGY

Domestic violence advocates employed by domestic violence programs provide advocacy, shelter, information, and other services and are often based in, or linked with, a nonprofit, nongovernmental agency. The advocate's role is defined by the needs and desires of the victim, and the overarching goal of the advocate is to support and bolster the woman's confidentiality and decisions and provide her with information. The allegiance of the domestic violence advocate lies solely with the woman who is abused. The advocate may be called upon to represent the interests of victims to other persons or agencies. Advocates and domestic violence programs are a major resource for community corrections professionals and vice versa, and this interdependent relationship should be encouraged, strengthened, and formalized on the local level as a necessary part of a coordinated community response to domestic violence (NYS PDVIP, 2004).

District attorney's offices, law enforcement agencies, and other justice system programs often employ **victim-witness liaisons** to work with victims among their active cases. While it is important to note that some system based programs use the word "advocate" to describe victim-witness liaison staff, it can be misleading and confusing to women who are abused. Although services may be offered or provided to the domestic violence victim, the allegiance of the system advocate/victim-witness liaison is generally to the employing agency, and their role is to further the purposes and goals of that organization. This allegiance probably precludes the possibility, in practice, of attaining the level of confidentiality that victims expect from someone who carries the title of "advocate." For example, advocates do not release information to the justice system regarding the experiences of the victim. Despite these potentially competing interests, victim-witness liaisons are able to provide services within their system, which have benefits to domestic violence victims (NYS PDVIP, 2004).

focus by community corrections professionals on their role of holding offenders accountable and changing their behavior to promote victim safety is crucial but not sufficient. Successful intervention for domestic violence requires effective communication, coordination, and cooperation among all those working with domestic violence victims and perpetrators. Otherwise, the risk of further isolating victims and contributing to the power and control offenders exert on them is potentially magnified.

IMPLEMENTATION STRATEGIES

The following strategies suggest important ways that community corrections professionals can strengthen community coordination for domestic violence.

- Develop working relationships with local domestic violence victim advocates and victim service agencies. The community supervision officer has contact with victims to enable officers to supervise offenders better. The primary duty and responsibility of the community supervision officer is to hold offenders accountable for complying with the conditions of their release and, thereby, to promote victim safety. Officers should be familiar with local domestic violence advocacy and victim witness liaison services (note the differences explained in the sidebar) and offer victims referral information to help them obtain needed services. Officers especially should forge working relationships to cooperate and collaborate with domestic violence victim advocates. Advocates can provide valuable assistance to victims whose offenders are being supervised and provide essential counsel to community corrections personnel about victims' issues, available community services to help with specific victim needs, and safety planning. Collaboration with domestic violence programs and advocates are among the most important alliances community corrections professionals can form. Local domestic violence advocates are experts on domestic violence and the issues fac-

ing victims, and they are committed to strengthening social and justice systems. Collaborations can improve case management, significantly support victim safety, and make community corrections professionals' work more effective. Potential benefits from collaborating with domestic violence advocates include the following:

- Advocates can be a contact and serve as a buffer between the victim and community corrections professionals.
 - Advocates can explain the justice system process and help victims understand what to expect at each stage.
 - Advocates can explain to victims the documents, paperwork, and kinds of questions that community corrections professionals may ask.
 - Advocates can assist victims with safety planning and help develop strategies that promote safety.
 - Advocates can help prepare victims for meetings with community corrections professionals and may be able to attend meetings to provide additional support.
 - If a community corrections professional does not know how to contact a victim, an advocate may know where she is and might convey information to her (e.g., in a shelter or relocated to another state), while also maintaining her confidentiality.
- **Coordinate with batterer intervention programs.** If offenders are ordered to participate in a batterer program, community corrections personnel must communicate with the batterer program staff in support of the goal of offender accountability. Therefore, staff of both programs must communicate and coordinate services for each offender. This coordination may include:
 - ensuring prompt referral and entry into the batterer program,
 - arranging regular information sharing between batterer program staff and community corrections professionals about attendance of each offender, and
 - conferring when further actions, such as sanctions, are required. (More information on batterer programs is provided in chapter 10).
 - **Case Staffing.** Supervising officers should have the availability of case staffing with supervisors and colleagues as well as other agencies and professionals involved in the case. Discussing cases with other officers (in a manner that protects the privacy of sensitive information) provides a way to explore appropriate responses, get feedback on intervention options and case management strategies, and maintain objectivity. Some agencies have regularly scheduled meetings attended by probation and parole personnel, law enforcement, victim advocates, prosecutors, service providers, child welfare workers, and others. These meetings are used to discuss specific cases, make case planning decisions, and coordinate services with information and input from all present. Bringing other perspectives into officers' supervision plans potentially enhances the quality of the response to the offender. The meetings also provide a forum to discuss system processes, identify areas for improved functioning and response, and revise policies and protocols.
 - **Coordinate cases involving multiple jurisdictions.** Most of the information discussed in this document is readily applicable to State and local criminal courts and their jurisdictions. State and local criminal jurisdictions, however, may coincide with civil and family courts as well as Federal, tribal, and military justice systems as discussed in chapter 3. Concurrent jurisdictions pose special challenges for coordination and collaboration. Some offenders may be supervised in multiple jurisdictions for various domestic violence cases. Simultaneously, offenders may have orders from civil courts such as protection orders, child support requirements, and child custody decisions. Further, it is possible that an offender may be supervised on parole and probation at the same time. Immigrant offenders might be supervised by community corrections while also being under the jurisdiction of U.S. Immigration and Customs Enforcement (ICE; formerly Immigration and Naturalization Services). Fully understanding the offender's justice system involvement and consistently

responding to noncompliance requires an initial investigation and periodic checks throughout the supervision period. Multiple courts or other agencies supervising the same offender should share information about the conditions of supervision and coordinate supervision strategies. Without adequate coordination, there is a potential for conflicting supervision conditions and orders (e.g., a stay-away order from criminal court and a parental visitation order from family court), communication difficulties, and offender manipulation of the system.

GUIDELINE 2:

Community corrections professionals engage in ongoing learning opportunities on domestic violence.

RATIONALE

Domestic violence cases are unique, often dangerous, and potentially lethal. Community corrections officers need specialized skills and tools to be effective. All community corrections professionals need training on domestic violence, as everyone should have an understanding of the dynamics of domestic violence and be able to recognize risk factors within their population of offenders and victims. Those who work closely with these cases should receive intensive training. Community corrections professionals must have a solid understanding of the dynamics of domestic violence which is critical in reducing officers' frustrations with these cases and promoting an effective response. Secondly, a clear understanding of the goals of supervision, monitoring strategies, and the skills required to perform effective intervention is critical.

They also must comprehend that methods such as couples counseling and anger management are not appropriate, place the victim at risk, and will not end the violence.

Research on the effectiveness of training for community corrections professionals is not available, but one study did evaluate training programs about family violence that were offered to 16,000 police officers, other justice system staff, and community service providers between 1986 and 1992. The evaluators concluded that the training resulted in more uniform and progressive policies being developed in the participating jurisdictions. Further, the training was credited with improved attitudes and services to victims by the training participants and enhanced working relationships among agencies in these jurisdictions. In one jurisdiction, followup interviews with victims found that those who had received intervention by trained police officers were more satisfied with the services they received than were victims who received services from untrained officers (Newmark, Harrell, & Adams, 1995). This limited evidence suggests that training is an important factor in proficient and victim-sensitive service delivery.

IMPLEMENTATION STRATEGIES

Agencies should provide staff training on domestic violence to prepare community corrections professionals to perform their job responsibilities competently. However, professional staff members also have a responsibility to pursue and enhance their own knowledge and skills through individual learning opportunities such as:

- **Reading professional literature on domestic violence and community corrections.** Increasingly, books, journals, websites, and other resources publish new and timely information about domestic violence. Keeping pace with the growing literature is difficult, but staying abreast of new research and techniques is crucial for

effective supervision. In community corrections agencies where there are several officers involved in domestic violence supervision, sharing materials and summaries of books or articles may help distribute the information among all officers.

- **Taking advantage of local expertise.** Domestic violence advocates and batterer intervention program providers are knowledgeable about domestic violence and often provide a range of viewpoints that may differ from those held by community corrections professionals. Participating in discussions about individual cases or about problems in general can be instructive.
- **Attending training programs.** Agencies should provide their staff with training to perform their job responsibilities. However, agencies may not be able to provide as much training as desirable. Professionals can improve their expertise by pursuing their own training opportunities at workshops and conferences. Many such offerings are low-cost or free, and some provide scholarships if agency funds cannot provide reimbursement. Community corrections professionals should seek information and pursue training opportunities on a variety of topics. Some of the essential basic training topics for competent practice include:
 - Dynamics of domestic violence, victimization and its effects, and perpetrator tactics.
 - Risk factors for and indicators of domestic violence.
 - Case management skills and both effective and ineffective intervention strategies.
 - Strategies for promoting victim safety during case supervision.
 - Cultural competency for working with victims and offenders.
 - Recognizing and avoiding unintentional reinforcement of domestic violence through verbal and nonverbal interactions with offenders and victims.
 - Understanding and appropriately responding to needs, issues, and behaviors from victims.

Community corrections professionals also should be well trained in the application of officer safety precautions.

GUIDELINE 3:

Community corrections professionals maintain high standards of professional integrity and consciously avoid unintended reinforcement of domestic violence.

RATIONALE

Many membership and regulatory organizations for professional disciplines have adopted a code of ethics to set ethical practice standards. The American Probation and Parole Association has both a Vision Statement, which outlines the principles from which the organization operates, and a Code of Ethics (see attachment 6-A following this chapter). Although general in scope, these documents emphasize the value placed on integrity in practice and also recognize the multiple foci of community corrections work, including offenders, victims, the justice system, and communities.

Domestic violence is a pervasive and insidious problem in American society. Community corrections professionals and agencies have been immersed in the dominant American culture that frequently endorses intimate partner violence in both overt and obscure manifestations. Thus, in the course of working with domestic violence cases, community corrections professionals must scrutinize and adjust their own attitudes and behaviors continuously to assure they are consistent with standards of ethical practice.

In some situations, community corrections officers may unintentionally reinforce offenders' beliefs and violent behaviors. This unintentional reinforcement may occur during interactions with both offenders and victims. In such situations, examination of professional behavior and its underlying values is essential.

Unintentional reinforcement with offenders can include positively motivated attempts to try to relate to them personally. Reinforcement also can be as overt as agreeing with an offender that his victim is crazy or hard to get along with or that all women should be kept in their place. Allowing the offender to divert attention from his behavior to any other issue, whether intentional or unintentional, reinforces his attitudes and behavior.

However well-intentioned community corrections professionals may be, it is the victim's perception of the officer's behavior that is crucial. Victims must feel that supervising officers are trustworthy, that they do not support the batterer's abusive beliefs and behaviors, and that they are focused primarily on the victim's safety. Victims may sometimes view typical processes as though the offender has the advantage in a given situation. From her perspective, he is receiving attention, often free legal defense, someone (the community corrections officer) to help him with his problems, "treatment" in the batterer program, help with drug and alcohol problems, and so forth. At the same time, she may be struggling to care for children, maintain a household, and manage scarce resources while overcoming physical and psychological injuries. She may have to leave her home for a shelter, while he is allowed freedom in the community. Community corrections professionals should carefully convey the purpose and philosophy of community supervision to the victim so that she does not view it as supportive of the offender's beliefs and actions.

Examples of unintentionally reinforcing domestic violence may include officer behaviors such as:

- Allowing offenders to make excuses for their violent behavior without challenging them (e.g., substance abuse causes the violence).

- Blaming or allowing offenders to blame the violence on the victim's behavior (e.g., she is crazy; she is stupid, she didn't have dinner ready on time).
- Engaging in social behaviors that represent traditional forms of male bonding (e.g., asking about sports instead of the offender's behavior).
- Not confronting an offender's use of belittling or derogatory terms for his victim (e.g., "my girl" or "my old lady").
- Labeling victims as "uncooperative," "unreliable," and other evaluative terms (e.g., in written or verbal reports to the court).
- Not believing the victim's story (e.g., the victim "alleges" that the offender abused her).
- Expecting more from domestic violence victims than from other victims (e.g., allowing or asking the victim to report on the offender's behavior or otherwise hold him accountable).
- Not returning phone calls from victims promptly.

(List generated by a Focus Group at the APPA Annual Institute July 25, 2005)

Of special concern in working with domestic violence cases is the practice of most domestic violence offenders who manipulate others to gain control in various situations. This manipulation, whether by force or more subtle means, has generally benefited offenders, and they are likely to continue employing these techniques to gain control in new situations. They also often exhibit different behavioral patterns in public and in private. In public and with authority figures, such as judges, attorneys, and community corrections officers, offenders may conform to social norms, but in the privacy of their home they may not be constrained by social conventions. Sometimes they use prosocial behavior to manipulate others to their advantage, such as attempting to prove what good guys they can be and how crazy the victim is for bringing all this trouble upon them. Community corrections professionals have to be knowledgeable of offenders' characteristics and not be misguided by manipulative behavior.

At times, community corrections officers may be the victims or perpetrators of domestic violence. No studies have been conducted to determine the frequency of such occurrences, but it is difficult for agencies to hold offenders accountable and respond supportively to victims if these same measures are not practiced within the agency.

IMPLEMENTATION STRATEGIES

The behavior of staff supervising domestic violence cases serves as a model for offenders. Firm, respectful interaction with the community corrections officer is an intervention for the offender, and the officer has the opportunity to teach appropriate social responses by example.

Verbal and nonverbal communications between community corrections professionals and both victims and offenders are important. Officers must be vigilant that victims and offenders not interpret any of their communication as supportive of their violent behavior.

Community corrections professionals can maintain high standards of professional integrity and avoid unintentional reinforcement of domestic violence and manipulation by offenders using the following practice strategies:

- **Listen for and challenge the offender's attempts to deny, minimize, rationalize, or externalize his behavior, and do not give abusers support for the excuses they offer to explain their abusive behavior.** Offenders' personal problems, moral deficits, disorders, low self-esteem, early childhood experiences, poor anger

management, diminished intellect, addiction, mental illness, other persons, or external events are important information for community corrections professionals to know about each offender with whom they work. However, these areas should not become the focus of interventions with domestic violence offenders. Such an approach undermines abusers taking responsibility to stop their abuse against their partners (State of New York, 1998, p. 6).

- **Respectfully convey a message of strong disapproval of the offender's violent and abusive behavior.**
- **Do not have any materials in offices or engage in conversations that convey sexist, racist, or other biased attitudes.**
- **Never make derogatory statements about victims or engage in victim blaming.** Officers likely will feel frustrated as they work with some victims. These feelings are valid, real, and common, and many who work with these cases experience them. These feelings may affect officers' work. However, officers need to understand why victims may behave in certain ways and develop appropriate strategies to deal with frustrations.
- **Invite others to observe and comment on interactions with offenders and victims.** Peers, supervisors, and domestic violence victim advocates who are not involved in specific cases may be able to assess interactions and provide constructive feedback. Observers should have the consent of the victim before observing any interactions with her.

Community corrections agencies should also implement policies that afford protection to their own staff members who are experiencing domestic violence victimization and provide clear directives about agency policy and procedures in the event a staff member is involved in domestic violence. Attachment A-2 contains a position statement and model policy for employee-involved domestic violence that has been adopted by the American Probation and Parole Association.

GUIDELINE 4:

Community corrections professionals are knowledgeable about and capable of working with offenders, victims, community members, and other professionals from diverse cultural backgrounds.

RATIONALE

The considerable diversity among victims and perpetrators of domestic violence requires systems and professionals to develop responses that consider the particular needs of each individual. These responses should also acknowledge the fear of involvement in the criminal justice system that is felt by groups that historically have been discriminated against by that system (e.g., people of color, people with disabilities, lesbians, gay men, bisexuals, transgendered individuals, and people with lower socioeconomic status).

Characteristics of culturally competent organizations and professionals include (Cross, Bazron, Dennis, & Isaacs, 1989):

- valuing diversity,
- engaging in self-assessment,
- managing differences,
- acquiring and institutionalizing cultural knowledge, and
- adapting to diversity and the cultural contexts of the communities and individuals served.

IMPLEMENTATION STRATEGIES

All abusers should be held accountable consistently for stopping physical violence and other forms of abusive behavior. To do this, community corrections professionals must familiarize themselves with the cultural backgrounds of offenders and victims for cases they supervise. They must strive to understand the cultural traditions of male and female roles that support oppression and violence in intimate partnerships, as well as those that model and support respectful, functional and nonoppressive relationships. Community corrections professionals can achieve this balanced view through ongoing dialogue with key informants from groups representing different races, ethnicities, religions, sexual orientation, and other cultural characteristics and through cultivating relationships with cultural affinity organizations that serve and represent the diverse populations in their caseloads. These contacts can help community corrections officers enhance their knowledge and can also be instrumental in accessing specialized resources or services that may support domestic violence victims or help offenders change their behavior. The following specific techniques can be employed:

- **Relate to all victims with respect and also take care to speak about their partners—the domestic violence perpetrators—respectfully.** This respect promotes trust.
- **Seek ongoing opportunities to learn about the cultural experiences of offenders and victims to gain awareness and knowledge of different groups and how their social positions and culture shape the supervision process.**
- **Refer victims from diverse communities to advocates who speak their language and understand their background, as well as to cultural affinity organizations that may have specialized understanding about their needs.** Cultural affinity organizations may also be instrumental in accessing specialized resources for services that may support domestic violence offenders in the change process. For example, contacts with clergy that work with different communities can have a very positive effect. Spiritual leaders who have influence over domestic violence offenders and who can give nonviolent and responsibility-oriented messages can be very valuable and can enhance the probability of long-term change after the period of community supervision. Caution should be exercised, however, before making these referrals to understand the tenets of the affinity groups and make sure they do not support and condone abuse and oppression of women.
- **Provide certified interpretation services for both victims and offenders who are not proficient in English.** Interpreters should never be the family members or friends of victims or offenders.
- **Recognize offenders' attempts to use culture as an excuse or justification for domestic violence and hold offenders accountable for their abusive behavior.** Do not accept the idea that domestic violence is “normal” in only some cultures, as all cultures worldwide support and condone violence against women. Community corrections professionals must familiarize themselves with the cultural backgrounds of their clients so they can resist such arguments. They must strive to have a balanced view of roles and traditions for the different populations of domestic violence perpetrators and victims with whom they work.
- **Become knowledgeable about provisions of the Violence Against Women Act regarding battered women who are undocumented or who are not citizens.** Have referral information for victims for expert legal advice about these provisions.

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*Attachment 6-A***AMERICAN PROBATION AND PAROLE ASSOCIATION VISION STATEMENT**

APPA *We see a fair, just and safe society*



We seek to create a system of Community Justice where:

A full range of sanctions and services provides public safety by insuring humane, effective and individualized sentences for offenders and support and protection for victims;
Primary prevention initiatives are cultivated through our leadership and guidance;
Our communities are empowered to own and participate in solutions;
Results are measured and direct our service delivery;
Dignity and respect describe how each person is treated;
Staff are empowered and supported in an environment of honesty, inclusion and respect for differences; and
Partnerships with stakeholders lead to shared ownership of our vision.

CODE OF ETHICS

- I will render professional service to the justice system and the community at large in effecting the social adjustment of the offender.
- I will uphold the law with dignity, displaying an awareness of my responsibility to offenders while recognizing the right of the public to be safeguarded from criminal activity.
- I will strive to be objective in the performance of my duties, recognizing the inalienable right of all persons, appreciating the inherent worth of the individual, and respecting those confidences which can be reposed in me.
- I will conduct my personal life with decorum, neither accepting nor granting favors in connection with my office.
- I will cooperate with my co-workers and related agencies and will continually strive to improve my professional competence through the seeking and sharing of knowledge and understanding.
- I will distinguish clearly, in public, between my statements and actions as an individual and as a representative of my profession.
- I will encourage policy, procedures and personnel practices, which will enable others to conduct themselves in accordance with the values, goals and objectives of the American Probation and Parole Association.
- I recognize my office as a symbol of public faith and I accept it as a public trust to be held as long as I am true to the ethics of the American Probation and Parole Association.
- I will constantly strive to achieve these objectives and ideals, dedicating myself to my chosen profession.

Attachment 6-B

AMERICAN PROBATION AND PAROLE ASSOCIATION POSITION STATEMENT on EMPLOYEE-INVOLVED DOMESTIC VIOLENCE

Introduction

Community corrections employees are not immune from committing or being the victim of domestic violence. Domestic violence is a pervasive and insidious justice system problem that has no boundaries regarding the age, race, sex, religion, education, socioeconomic class, or professional affiliation of either victims or perpetrators.

Both in frequency and severity, intimate partner violence is primarily, but not exclusively, a crime committed by men against their female partners.³ Women experience more intimate partner violence, are more likely to be injured by this violence, and are more likely to be a homicide victim as a result of intimate partner violence than their male counterparts. However, females do injure and even murder male intimate partners. Further, domestic violence and child abuse often co-occur within the same households. Domestic violence rates are unacceptably high, and domestic violence results in unnecessary injuries, deaths, economic hardships, and emotional suffering for victims, their families, friends, associates, and the community. Domestic violence costs victims and society billions of dollars each year, with employers and victimized employees each experiencing significant losses.

Position

The American Probation and Parole Association recommends that community corrections agencies and professionals take a proactive stance to address domestic violence by establishing protocols for the supervision of domestic violence cases and adopting policies to address employee-involved domestic violence. The following model policy on employee-involved domestic violence is recommended.

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## MODEL POLICY

### Policy Statement

Employers are required to provide a safe working environment for all employees as mandated by federal, state and local laws and policies. Employers must respond proactively to safeguard employees if actual or threatened domestic violence affects employees at the workplace. When domestic violence is perpetrated, the first priority is victim, workplace, and community safety, followed by offender accountability. The perspective of this policy is that domestic abuse is unacceptable. Those who are victims of domestic violence and are employees of a community corrections agency should be provided support and necessary considerations to promote their safety. To preserve the integrity of the community corrections profession, to enhance community trust in the justice system, to promote justice, and to set an example for all offenders, domestic violence perpetrated by employees of community corrections agencies will not be tolerated.

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<sup>3</sup> In this document, feminine pronouns (she, her) are used to refer to victims and masculine pronouns (he, him) are used to refer to offenders or perpetrators.

## Definitions

The following definitions are applied in this policy.

**Domestic violence** (or intimate partner violence) is a systematic pattern of assaultive and coercive behaviors used to exert dominance and control over the victim. Violent and abusive behaviors include both criminal and noncriminal actions such as physical assaults, intimidation, threats, isolation, stalking, emotional abuse, sexual abuse, using children, economic control, and using male privilege.<sup>4</sup> These behaviors are not done in the defense of oneself or others.

**Intimate partners** are those who currently are or previously were involved in an intimate relationship. This includes people who are married, separated, divorced, have a child in common, cohabit or formerly cohabited romantically, dated or formerly dated, or are otherwise defined as intimate partners by jurisdictional statutes. It does not include other family relationships such as parent-child, siblings, or other extended family relationships that do not involve an intimate partnership. Intimate partners include both heterosexual and same-sex relationships.

**Community Corrections Agency/Professional** refers to any agency or professional that provides community supervision to defendants and convicted offenders under the jurisdiction of a court or releasing authority. This typically includes pretrial, probation, parole, and community-based programs (e.g., halfway houses).

**Domestic Violence Victim Advocates** work in an independent, community-based organization with the sole focus of supporting, assisting, and advocating on behalf of domestic violence victims. They are not constrained by allegiances to any person or organization other than the domestic violence victim. Other victim assistance personnel may work with domestic violence victims, such as victim-witness professionals in a prosecutor's office, but they have to maintain allegiances to both the victim and the justice system.

**Protection orders** are any injunctions or other orders issued by a court to restrict the actions of a domestic violence perpetrator toward a victim. These may be issued by either civil or criminal courts and may be called an order of protection, a temporary order of protection, a restraining order, a temporary restraining order, an injunction, an injunction against harassment, a protection from abuse order, an order against abuse, a stay-away order or some variation thereof. The purpose of protection orders may include preventing the perpetrator from committing violent or threatening acts, stalking, or harassment, contacting or communicating with the victim, or being in the physical proximity of the victim.

## Procedures

The following procedures are designed to address both victim safety and offender accountability in situations in which employees are involved in a violent intimate partnership.

### A. Develop Proactive Policies

Agencies will develop proactive written policies that express zero tolerance for domestic violence and outline procedures to be taken if an employee is the perpetrator or victim of domestic violence.

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<sup>4</sup> Male privilege refers to unearned assets and advantages conferred upon men through existing social hierarchies from which they perceive entitlement to dominate and control women.

**Action Steps**

- Agency administrators will write policies consistent with this model policy that reflect intolerance for domestic violence by employees and express support and assistance for employees who are victimized by domestic violence. Policies will undergo standard procedures for adoption by the agency's administrative staff and/or governing body.
- Agencies will include local domestic violence victim advocates in the development and/or review of policies on employee-involved domestic violence.
- Employers will develop and implement general workplace safety policies, such as building security, emergency procedures, and procedures for employee safety when conducting field work. These will be reviewed regularly to ensure that they are consistent with safety measures needed for domestic violence victims and adjusted when needed.
- Employers will review regularly agency policy manuals and other literature to ensure an accurate, consistent, and strong message is conveyed about the agency's stance on employee-involved domestic violence. As printed or electronic materials about the agency are updated, information on domestic violence will be inserted as appropriate.
- Policies will convey that all agency employees are expected to be respectful of other people. Language and practices that convey sexism, racism or other bias against groups of people will not be tolerated. Supervisors, managers, and administrators of the agency will set a tone that communicates intolerance for domestic violence or other discriminatory behavior and will address any incidents of staff's inadvertent complicity with domestic violence perpetrators.
- Other community and justice system agencies that may be affected by the community corrections agency's domestic violence policies (e.g., law enforcement, courts) will be informed of these policies.

**B. Promote Awareness of Domestic Violence Among Employees**

All community corrections employees will be made aware of domestic violence, its effects on victims and their families, and the agency's policies on employee-involved domestic violence. They should receive information that is useful in case management of offenders who perpetrate domestic violence as well as information that may be useful if employees are involved personally in intimate partner violence. All information conveyed to community corrections employees will emphasize that the agency does not tolerate the perpetration of domestic violence and will afford support and protection to employees who are victims of domestic violence.

**Action Steps**

- Agencies will include local domestic violence victim advocates in the development and delivery of training and other information on domestic violence.
- Employers will provide regular in-service training on domestic violence, at least annually, for both new and permanent employees. This training will include but not be limited to: the dynamics of domestic violence; the effects of domestic violence on victims and their children; warning signs of domestic violence; victim safety strategies; federal, state and local domestic violence laws; agency policies about domestic violence in the workplace; and available resources for victims of domestic violence. Employees who supervise perpetrators of domestic violence crimes will receive additional in-depth training on personal safety, supervision strategies, and working with victims for these cases.
- Supervisors of agency personnel will receive additional training on how to identify and intervene in situations in which they become aware of domestic violence perpetration or victimization.
- Agencies will periodically reach out to employees and their intimate partners with information about

domestic violence policies, whom to contact if they have a concern or want to report domestic violence, and information on local services for domestic violence victims. Agencies with internal victim services staff can assist with domestic violence training and referrals. Victim services staff should maintain information on community and justice system domestic violence resources and provide assistance to victim-employees with preliminary safety planning.

- Employers will furnish information on domestic violence and available resources in the workplace at locations where employees can obtain and review it confidentially. Information also may be posted on employee bulletin boards and circulated in agency newsletters as appropriate.
- Information on policies related to domestic violence for employee-victims or perpetrators will be included in information packets provided to all new employees of the agency.
- Employers will inform employees of ways in which domestic violence affects health insurance and whether domestic violence may be designated as a preexisting condition.

### **C. Support and Protect Employee Domestic Violence Victims**

Victims of domestic violence who are employees of community corrections agencies may experience a variety of problems affecting their job performance. Absenteeism, reduced productivity and effectiveness, receiving excessive telephone calls or other unwanted contacts at work from an abuser, and signs of stress, depression, or substance abuse are all possible indicators of domestic violence victimization that may affect job performance. Consequences for the agency also may include escalating health care costs and increased employee turnover. Beyond the effects on victim-employees, domestic violence perpetrators may pose a threat to other employees or interfere with their work performance while they harass, stalk, or abuse their victim in the workplace.

#### **Action Steps**

- Employers will not inquire about or require potential employees to disclose domestic violence victimization during or as a condition of the hiring process. However, they will make employees aware of the agency's policies about employee-involved domestic violence at the time of employment.
- Supervisors will provide a safe and confidential way for employees to inform them if they are victims of domestic violence. If employees choose not to disclose their abuse, no further questions or speculation will be made.
- Supervisors will maintain current knowledge of community and justice system resources that may be helpful to domestic violence victims and will make appropriate referrals of employee-victims when needed.
- Supervisors will maintain the confidentiality of employee information about domestic violence victimization except in circumstances in which disclosure would promote victim safety or in which maintaining confidentiality would jeopardize the safety of the victim or his/her co-workers. If requested by the employee, every possible effort will be made to keep the employee's personal information (such as home address, telephone number) confidential. If supervisors must breach confidentiality of victim information for any reason, they will inform the victim of the information released and with whom it was shared.
- Employees reporting domestic violence victimization will be provided with information about obtaining protective orders to keep their abusers away from their home, workplace and other locations they frequent. If employee-victims have a protective order but it does not include the workplace, supervisors will encourage them to request an amended order to add the workplace. Supervisors will encourage an employee-victim to provide a copy of the protective order to them (supervisors), security staff, and local law enforcement along with a picture of the domestic violence perpetrator. Agency administrators may seek a restraining order on behalf of the agency to deter perpetrators from stalking or abusing the victim at work if these are available in

the local jurisdiction and if deemed necessary to protect agency personnel.

- Supervisors will have protocols in place for obtaining emergency assistance if the employee-victim or other staff members are in immediate danger.
- Supervisors will request that employee-victims of domestic violence provide home and emergency contact information that supervisors will maintain confidentially. If an employee-victim is absent from work without notifying the agency, the supervisor will make efforts to contact the employee as soon as possible after the absence is noted.
- Supervisors will arrange for a checkout system for all employees who leave the worksite for business purposes. If an employee-victim does not return or check in by the planned time, supervisors or their designees will follow a predetermined protocol for trying to contact the employee, contacting the employee's alternate phone numbers, and then reporting the absence to law enforcement.
- Supervisors will make reasonable accommodations for employee-victims who need to miss work or adjust their schedules to attend to legal matters, medical treatments, or matters involving their children that are directly related to domestic violence perpetrated against the employee.
- Supervisors will make other reasonable accommodations to promote the safety of employee-victims of domestic violence when possible, such as changes in work location, job responsibilities, work schedules, and performance expectations.
- If an employee-victim is receiving unwanted phone calls, mail, e-mail or other contacts at work from the perpetrator, the supervisor will make arrangements to have these communications screened by other staff, if possible.
- The agency will arrange for employee-victims to have parking spaces that are close to the building in well-lighted areas.
- Employee-victims who are concerned for their safety in the workplace will not be required to work at hours when few or no other staff members are available.
- If the employee is the victim of domestic violence perpetrated by another employee, the supervisor will take action immediately to promote the victim's safety through allowable personnel policies, such as granting requested leave to the victim, granting the perpetrator involuntary leave, reassigning the victim or the perpetrator, or moving the victim and/or perpetrator to worksites in which they do not have contact with each other. If possible, victims should be given their preferences about work assignments and worksites.
- If agency policy requires the employee-victim to carry a firearm, the supervisor will make provisions for the safe storage of that firearm at the worksite, if requested.
- Where possible, agency policies will permit changes in benefits at any time during the year for employees who have been victims of domestic violence and have separated from an intimate partner.

#### ***D. Hold Employee Perpetrators of Domestic Violence Accountable***

Because employees of community corrections agencies hold positions of trust in the community and the justice system and they should provide examples of prosocial behavior for the offenders they supervise, their job-related and personal conduct must be lawful at all times. Perpetration of domestic violence by community corrections employees is criminal and is unacceptable whether it is committed at or away from the workplace. Employees of community corrections agencies who perpetrate domestic violence will be held accountable, as would any other perpetrator.

### Actions Steps

- Applicants for employment in community corrections will be screened for a history of perpetrating domestic violence. Backgrounds will be checked through available databases including arrest history and being the respondent to a protection order. Candidates also will be asked if they have engaged in, been investigated for, or been convicted of any domestic violence offenses. In accordance with jurisdictional laws and agency policies, applicants with a history of domestic violence will be eliminated from consideration for employment unless there are compelling and documented reasons for further consideration.
- Newly hired community corrections agency employees will be provided copies of the agency's policy on domestic violence.
- Employees are encouraged to take personal responsibility to seek confidential referrals and assistance from the agency to prevent problems from escalating to criminal abuse of their intimate partners. Agency supervisors will have available a list of possible referrals to assist employees with resolving problems that may lead to domestic violence.
- Supervisors will receive training about warning signs of domestic violence (e.g., generally aggressive behavior, control of an intimate partner, stalking, disparaging remarks about an intimate partner, deteriorating work performance, alcohol or drug abuse). If they recognize such behavior among their employees, or if such behavior is reported to them, they will address the behaviors directly with the employee, document all contacts, forward written reports to agency administrators, request needed services that may be available through the agency (e.g., counseling, psychological examination, employee assistance program), and provide referrals to applicable community services (e.g., a certified batterers program).
- If warning signs are noted by supervisors, or at the request of an employee, the agency will provide nonpunitive avenues of assistance before an act of domestic violence occurs.
- It is a violation of agency policy to misuse agency resources to commit an act of domestic violence, commit an act of domestic violence from or at the workplace or from any other location while on official agency business, or misuse job-related authority or resources to negatively affect victims, assist perpetrators in locating a victim, or assist perpetrators in committing an act of domestic violence.
- The agency will enter into agreements with law enforcement agencies in jurisdictions in which its employees work, live, or have reason to spend time to receive timely notification of a domestic violence incident involving a community corrections employee.
- The agency will periodically check available databases for arrests of and protection orders filed against community corrections agency employees. If such should be found, further investigation will be undertaken either internally or in conjunction with law enforcement.
- Supervisors will accept, document, and preserve reports of domestic violence by employees' intimate partners, other family members, work colleagues or other identified or anonymous sources. Supervisors will address the behaviors directly with the employee, document all contacts, forward written reports to agency administrators, request needed services that may be available through the agency (e.g., counseling, psychological examination, employee assistance program), and provide referrals to applicable community services (e.g., a certified batterers program). If warranted, the reported behaviors also will be reported to law enforcement for criminal investigations.
- Employees will report to their supervisors any knowledge they have of abuse or violence perpetrated by work colleagues. They also will cooperate with any investigation related to their knowledge of employee-perpetrated domestic violence. Failure to report or cooperate with investigations will result in disciplinary actions. (NOTE EXCEPTION: If the employee who fails to report is the victim, follow recommended policies in section C above.) If employees fail to report knowledge of abuse by work colleagues because of a victim's request for confidentiality and there were no other means of independently verifying the abuse, administrators or managers may consider the employee's concern for victim safety issues in their disciplinary responses.

- If allegations of domestic violence involve both an employee-victim and an employee-perpetrator, supervisors will take immediate action to promote the safety of the alleged victim through strategies such as work reassignments, location reassignments, temporary layoffs, changes in work hours, and other similar adjustments. Supervisors will maintain documentation of any incidents perpetrated in the workplace and make that available, as needed, for evidence in prosecuting domestic violence cases.
- Community corrections employees arrested for or under investigation for domestic violence will report such incidences to their supervisors and provide notice of court dates, times, appearances, and proceedings. Failure to do so will result in disciplinary actions.
- Community corrections employees who are the subject of any protective order proceeding, whether or not the order is issued and regardless of jurisdiction, will immediately notify their supervisor and provide a copy of the order, if issued.
- Employees under investigation for the perpetration of domestic violence will not interfere with the investigation or intimidate or coerce witnesses or victims. Prohibited perpetrator-employee behavior includes surveillance, harassment, stalking, threatening, or making false allegations against victims or witnesses.
- If an investigation reveals that domestic violence occurred or any department policies were violated, administrative action will be taken independent of any criminal proceedings as soon as practicable. The agency will adhere to and observe all protocols to ensure an accused employee's agency, union, and legal rights are upheld during the administrative and criminal investigations.
- If community corrections employees carry firearms and they are arrested for a domestic violence offense or are the subject of a protective order, they will relinquish those firearms or firearms permits in their possession (both agency-issued and personal weapons). This will be done in accordance with federal,<sup>5</sup> state, and local jurisdiction statutes according to procedures in place by local law enforcement and/or community corrections agencies. Firearms will be deposited in safe storage until such time as the case is disposed.
- If there is credible evidence of employee-perpetrated domestic violence, community corrections employees will be relieved immediately from duties that involve the use of firearms, the supervision of domestic violence offenders, or other sensitive duties. If allegations of domestic violence are confirmed, supervisors will consider terminating the offender's employment as possible, given agency personnel policies and union contracts.
- In the event the chief administrator of a community corrections agency perpetrates domestic violence, the deputy or next highest-ranking administrator of the agency will notify the district attorney and the individual in government who has direct oversight for the chief administrator (e.g., judge, county executive, oversight board).
- Intimate partner victims of employees of a community corrections agency will be afforded all the support and assistance (including assistance with safety planning) that is made available to other victims of domestic violence.
- If a court or releasing authority orders a former community corrections employee convicted of domestic violence to a period of community supervision, agency supervisors will assign responsibility for case management to an officer who previously has not been a colleague of the former employee and who is experienced in supervising domestic violence offenders. Such cases will be supervised in accordance with all agency policies and procedures for the supervision of domestic violence cases. If it is not possible to assign the case to an unbiased officer within the agency, administrators will request courtesy supervision by another community corrections agency through intra- or interstate arrangements.

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<sup>5</sup> Pursuant to 18 USC § 922(g)(1-7, 8, 9), felony offenders, those subject to a domestic violence restraining order, and misdemeanor domestic violence offenders are prohibited by federal law from purchasing, possessing, receiving, or transporting firearms or ammunition. Also included in this prohibition are fugitives, drug addicts, mentally ill offenders, undocumented immigrants, dishonorably discharged military personnel, and those who have renounced their United States Citizenship. Federal law 18 USC § 925(a)(1) stipulates that military personnel, law enforcement officers, and other local, state and federal employees required to use firearms to conduct their official duties who are convicted of misdemeanor domestic violence offenses may not possess personal or officially issued weapons. However, those in this group who are subject to a protection order may be exempt from the work-related firearms prohibitions.





# CHAPTER SEVEN

## CHAPTER SEVEN

### Guidelines for Case Investigation

#### **GUIDELINE 5:**

*A consistent, thorough prerelease, presentence, or intake investigation is conducted in all cases of intimate partner domestic violence.*

#### **GUIDELINE 6:**

*Community corrections professionals use effective interviewing strategies appropriate for each person involved in a case.*

#### **GUIDELINE 7:**

*Community corrections professionals identify and investigate for the presence of known risk factors for domestic violence reabuse and danger.*

#### **GUIDELINE 8:**

*Community corrections professionals follow established criteria and protocols for making decisions about the preadjudication release or continuation in custody of intimate partner domestic violence perpetrators.*

#### **GUIDELINE 9:**

*If a standard risk assessment instrument is used in the agency, protocols are in place to override scores based on the presence of domestic violence risk factors that indicate higher risk.*

#### **GUIDELINE 10:**

*Community corrections professionals periodically reassess offenders convicted of and supervised for other crimes to identify those who are also abusing their intimate partners.*

#### **GUIDELINE 11:**

*Investigation of domestic violence offenders is ongoing with new information, violations, pending hearings, or reports from programs prompting immediate scrutiny. Program personnel regularly check for existing or new protective orders or indicators of new criminal conduct and respond to these by investigating them and intervening appropriately.*

#### **GUIDELINE 12:**

*Community corrections professionals independently verify information provided by victims that will be used in sentencing or sanctioning offenders.*

**GUIDELINE 5:**

***A consistent, thorough prerelease, presentence, or intake investigation is conducted in all cases of intimate partner domestic violence.***

**RATIONALE**

Most domestic violence defendants enter the criminal justice system on misdemeanor charges. Jurisdictions vary in organizational structure, community corrections practices, and the timing and thoroughness of investigations. The criminal justice process involves deciding eligibility for release after arrest, plea, or sentence and determining conditions and level of supervision. Such decisions often are based on the crime committed, the relationship of the victim and offender, and the quality of evidence. Factors external to individual cases, such as available jail space, potentially affect release and sentencing decisions. However, decisions about the release, sentencing, and supervision of domestic violence offenders should always be the result of a thorough investigation and analysis of the potential risk the defendant poses to the victim(s). The first contact a community corrections agency has with a domestic violence offender should prompt a thorough investigation, whether that is at the determination of release on bail, pretrial, presentence, parole, or at the point of intake for probation or parole supervision.

**IMPLEMENTATION STRATEGIES**

A thorough investigation includes gathering and assessing information about domestic violence history and patterns, offender characteristics, other criminal history, victim information, and family composition. Each of these is described briefly below.

- ***Domestic Violence History and Patterns.*** Although domestic violence is usually repetitive behavior, some domestic violence defendants do not have previous convictions for domestic violence. This, however, does not mean that abusive behavior has not occurred before. Investigators likely will need to piece together the domestic violence history and patterns from several sources keeping in mind that there may be multiple past or present victims. The outcome should be a chronological account of domestic violence behaviors that indicates frequency, level of violence, and victim(s) and provides an overall understanding of the offender's pattern and sequence of violence. To construct this picture, community corrections professionals will need to search multiple sources of information being sure to use all possible names and addresses the offender may have used in the past. Possible sources of information include:

- Current and previous arrest records.
- Current and previous police reports, 911 calls, and police calls to residence.
- Current and previous protective orders sought by any victim against the respondent/offender.
- Reports from family courts regarding divorces and child custody arrangements.
- Reports from present and previous victims.
- Reports from collateral sources (e.g., relatives of the victim or offender, neighbors, employers).

Integrated automated information systems including access by law enforcement, prosecutors, courts, and community corrections can ease the work of obtaining this information. However, if such data systems are not in place, it is still vitally important to collect this information.

- **Offender Characteristics.** Both demographic and personal information about the offender will contribute to the investigation and understanding of the pattern of violence. Standard information should be gathered, including the offender's age, sex, education, and employment history. All these factors may affect the level of risk an offender presents. Further information that should be collected includes:
  - Family background and childhood exposure to violence (e.g., violence between parents, being a child victim of abuse).
  - Substance abuse history and treatment.
  - Mental health problems and treatment history, including diagnoses of depression, anxiety, major psychotic disorders, conduct disorder (during childhood), antisocial personality, other personality disorders, and suicidal threats or attempts. Any prescribed or nonprescribed psychotropic drugs, steroids, or other medications taken presently or in the past should be noted.
  - Possession or access to firearms, ammunition, firearms permits, or other weapons of choice including any activities that may indicate weapon expertise or a pattern of use (e.g., military service, hunting).
  - Parenting history including children and stepchildren.
  - Personal values and behaviors (e.g., prosocial/antisocial, male dominance).
- **Criminal History.** A domestic violence offender's criminal history provides a good indicator of future criminal and domestic violence behavior. Officers should maintain a detailed account of an offender's arrests and convictions for any crime. However, there may not be a previous criminal history of domestic violence even though there has been a pattern of abuse.
- **Victim Information.** A victim impact statement is often part of a pretrial or presentence investigation. Whenever investigating domestic violence cases, obtain information from victims, if at all possible, either through a victim impact statement or other investigation process. During the investigation, remember that victim characteristics and behaviors do not cause domestic violence—the offender chooses to perpetrate abuse. While gathering victim information, officers need to request the following data. Much of this information can be requested from the offender and other sources, but it is useful to know the victim's perspective in several areas.
  - Victim's opinion of the level of danger posed by the offender. If her perspective indicates a lower level of risk than other indicators discuss the contradictory information with her and advise her that she may be at higher risk than she believes.
  - Relationship and domestic violence history (e.g., length of relationship, marriage, separations, divorce) and current status (e.g., living together, separated).
  - Types, frequency, and severity of violence (including noncriminal abuse such as isolation and financial control) perpetrated by the offender.
  - Offender's access to firearms, use of alcohol and other drugs, mental health disorders, and homicidal or suicidal threats or attempts.
  - Offender's use of stalking behaviors.
  - Offender's forcing the victim to have sex.
  - Injuries sustained by the victim including hospitalizations and those requiring medical treatment.
  - Property damage as a result of domestic violence.
  - Other losses caused by domestic violence (e.g., lost wages for victim) and whether the victim sought or received any compensation or assistance for these.
  - Effects of the violence on the victim.
  - History of protective orders, shelter use, and relocations by victim.
  - Victim's preferences for sentencing, conditions of supervision, release from custody, and notification regarding case actions.

A sample victim impact statement from New York is included in attachment 7-A, and it addresses each item in this list. Through the victim impact statement, victims can provide the court or releasing authority with input in their own words regarding the offense, injury or economic loss, the amount of restitution and reparation sought, and their views about the offender's release and case disposition. The emotional impact of the offense, the offender's history of violence toward the victim, and her perceptions of danger provide the court with a more accurate picture of the offense and its impact.

Although a victim impact statement is important for domestic violence investigations, if victims do not want to provide a victim impact statement, they should never be required to do so. If a victim does not respond to a request to complete a victim impact statement, document attempts to contact her using neutral, nonjudgmental terms. Do not assume, and do not write in the report, that the victim was "uncooperative." Victims might decide not to participate for many reasons, including safety. This is an opportunity to give the court or releasing authority information about why a victim may not feel able to make comments. In the absence of a response from the victim, most information about the victim can be obtained from other sources such as domestic violence incident reports, 911 transcripts, police reports, and/or through other sources.

- **Family composition and dynamics.** When investigating a domestic violence case, go beyond the victim and offender and gather information on other household members, or others who may be affected by the violence or may have information about it. This includes:
  - Children in the household, their relationship to the offender, and whether the victim is currently pregnant.
  - Effects of the violence on the children.
  - How decisions in the family are made.
  - How children are disciplined.
  - Whether other adults are living in the home, especially elderly or vulnerable adults.
  - Other professionals involved with the family (e.g., child protective services, therapists, juvenile probation officer).

### GUIDELINE 6:

***Community corrections professionals use effective interviewing strategies appropriate for each person involved in a case.***

## RATIONALE

Community corrections officers should use different skill sets to interview offenders than used when interviewing victims, and officers need to do both effectively. The officer also needs yet another set of interviewing skills to gather information from collateral sources.

## IMPLEMENTATION STRATEGIES

### Offenders

In interviewing offenders, the officer should ask the questions necessary to expose needed information, refuse to accept minimal responses, and disallow offenders' attempts to deny, minimize, rationalize, or externalize their behavior. The officer should constantly evaluate the integrity of the response and consider confronting any inadequate or inappropriate response. The officer should watch the offender's nonverbal language and be aware

of personally displaying nonverbal cues potentially perceived as supportive of the abuse. Officers must be careful that the offender cannot interpret their communications as supportive of his violent behavior. (See guideline 3 in chapter 6 for further information about unintentionally reinforcing offenders' violent attitudes and behavior.)

Interviewing strategies may differ based on interviewer style and whether the interview is for an initial investigation or the interviewer will be monitoring the offender after an imposition of community supervision. One method of interviewing holds that any offender effort to diminish the extent or effect of the abuse should be confronted immediately, albeit respectfully, so the offender is reminded consistently of the unacceptability of his violence. Another interviewing strategy allows him to articulate his story with very little interruption to gain as much information as possible by closely listening and later pointing out discrepancies with other information.

In Westchester County, New York, the officers assigned to conduct presentence investigations on domestic violence cases have a two-interview system for offenders. During the first interview with the offender, they ask questions and try to provide a receptive audience. This nonjudgmental, nonconfronting approach is deliberate to try to get the offender to be open. After the interviewer has compiled and analyzed the criminal and civil records data, the victim's information, and required collateral information, a second interview is conducted with the offender in which any discrepancies or inaccuracies from the offender's first interview are disclosed and discussed.

The officer should ask the offender to clearly define terms during the interview and not make assumptions about what is meant by words such as shout, slap, push, hit, shove, hold, or any term that is not explicit. For example, if the offender says he hit her, follow up with questions to define "hit" by asking about use of his fist or open hand, where he hit her, what force was used, what injury to the victim resulted, and why he hit. Do not let the offender use vague terms such as "a lot" or "a few" or "several." Require numerical specificity or provide ranges from which offenders can select (e.g., 1-3, 4-6, 7-9).

### **Victims**

Community corrections officers should interview victims in a manner that displays respect and concern for the victim's safety and other needs. The officer and the victim's advocate, if available, should cooperate to obtain information, with the victim's permission, as this sharing of the victim's story lessens the need for her to provide the same information continually to different personnel. As domestic violence victim advocates have greater expertise in working with victims, the community corrections officer should consider asking the advocate to sit in on the interview with the victim and possibly lead the interview with a prepared list of questions. (See chapter 9 for more information on contacting and interviewing victims.)

### **Collateral Sources**

A community corrections officer secures, supplements, and verifies information with a large roster of collateral sources that may include, as appropriate, the offender's and victim's parents and siblings, prosecutors, police, victim advocates, treatment providers, employers, neighbors, friends, religious leaders, and any others who can provide relevant information. Some of the interviews will be a straightforward exchange of information; others will require a more subtle communication style, and all are clearly bound by the strictures of applicable confidentiality requirements.

**GUIDELINE 7:**

***Community corrections professionals identify and investigate for the presence of known risk factors for domestic violence reabuse and danger.***

**RATIONALE**

Appropriate decisions for pretrial release and probation and parole supervision require community corrections professionals to gather and analyze relevant information. This includes factors associated with the likelihood of continuing violence or increasing danger in domestic violence cases. The underlying purpose of the investigation for domestic violence cases is to enhance victim and community safety, with victims suffering no further harm (Jaaber & Das Dagupta, 2002). Investigative processes and information can be used to inform victims of present and potential danger and to solicit victim input. Case investigations should help identify “the best estimates” (Grisso and Tomkins, 1996, p. 928) of appropriate supervision levels and release decisions by identifying the presence of “factors that consistently co-occur with abusiveness” (Dutton and Kropp, 2000, p. 173).

Ongoing research examines the risk factors for intimate partner violence. Risk factors listed in exhibit 7-A are those predicting recidivism by domestic violence perpetrators as well as risk factors for escalating danger. The distinction between recidivism and dangerousness risk factors is not absolute. As Websdale (n.d.) comments, “The absolute distinction between lethal and non-lethal cases is a false dichotomy; rather there is a range or continuum of violence and entrapment that underpins abusive intimate relationships.” The nature of domestic violence makes it difficult to predict future violence.

Research, however, has identified several offender characteristics that are strongly related to the reabuse of an intimate partner. Unemployment, poverty, family fragmentation, economic hardship, and isolation from conventional society are all features that potentially reduce legitimate opportunity structures and weaken informal ties and control in many neighborhoods (i.e., social disorganization). Benson et al. (2004) found the cumulative effect of such structural features strongly related to increased domestic violence. Besides these characteristics, research commonly identifies repeat offenders as younger, less educated, and having more substance abuse and mental health problems than their nonrecidivating counterparts. Although it is impossible to know conclusively which offenders will continue to abuse their partners, identifying characteristics known to co-occur with abuse can assist justice professionals to determine appropriate supervision approaches (see Vigorita, 2003; Simourd, 2004; Bonta, 2002).

**IMPLEMENTATION STRATEGIES**

Exhibit 7-A contains risk factors for both recidivism and dangerousness. Community corrections staff must be aware of and vigilant about investigating for these risks. This table has been compiled from several literature reviews of risk factors, and the factors listed are considered the predominant ones. However, study and identification of risk factors continue, and practice experiences may identify further areas to investigate.

Besides risk factors for domestic violence recidivism and danger listed in exhibit 7-A, there may be transient acute risk factors for particular offenders. These risk situations may vary considerably and have to be viewed within the context of the offender’s life and his interpretation of the events. A transient acute risk factor might include incidents such as the offender being served with divorce papers, his losing a custody battle for his children, or being served with a restraining order. Community corrections professionals should be aware of such situations and

help offenders through them. In some cases, victims may know that events such as these are anticipated and may be able to advise the community corrections professional that these are planned. It may even be helpful to arrange to have papers served at a place where the offender can immediately receive support and crisis intervention if he is expected to react strongly to these events.

### *Exhibit 7-A*

## **RISK FACTORS FOR DOMESTIC VIOLENCE RECIDIVISM AND DANGEROUSNESS**

How to Use Exhibit 7-A: This table is NOT a domestic violence assessment instrument. It is a guide for gathering information about domestic violence cases. It should prompt community corrections professionals to investigate for the presence of these factors. However, it should not be used to determine a risk level or score. Not every person who has some characteristics listed in this table will commit domestic violence. Research shows, however, that clusters of these factors identified in offenders increase the likelihood that the individual will continue to commit domestic violence and/or become a more dangerous domestic violence offender. Research has not identified which combinations or total number of factors identifies the most likely recidivists or most dangerous domestic violence offenders. Many of the same risk factors also predict general criminal recidivism and criminal violence.

### **Risk Factors for Both Recidivism and Dangerousness**

- Criminal history
- Previous domestic violence
- Substance abuse
- Depression
- Separation from victim
- Forced sex
- Male-dominated relationship (e.g., economic control, female isolation)

### **Additional Risk Factors for Reabuse**

- Young age
- Witnessed or experienced family violence as a child
- Fathering children by age 21
- Lack of commitment to prosocial values
- Unemployment or unstable employment
- Lower educational attainment
- Unstable lifestyle (frequent moves, poor accommodations)
- Lower socioeconomic status
- Financial pressures
- Mental illness (e.g., anxiety, schizophrenia)
- Personality disorders (impulsive, defensive, pathological jealousy, immaturity)
- Unmarried; cohabiting
- Blames victim
- Attends treatment reluctantly; drops out of treatment
- Social isolation (of the perpetrator)

### **Additional Risk Factors for Dangerousness**

- Serious injury to victim in prior abusive incidents
- Issuance of restraining orders
- Presence of stepchildren
- Pregnancy
- Sleep disturbances
- Access to firearms; use of weapon in prior abusive incidents; threats with weapons
- Access to victims
- Escalating domestic violence
- Threats of homicide and suicide
- Stalking the victim
- Violence or threat of violence to a pet
- Disregard for system intervention (e.g., resisting arrest, fleeing jurisdiction, violation of restraining orders)
- Controlling and limiting victims' movements and interactions (e.g., imprisoning)
- Public threats to kill or harm (e.g., message on answering machine or in the presence of others)
- Specific forms of violence and abuse (e.g., punching, strangling, arson, household destruction)

Sources: Block, 2000; Campbell et al., 2003; Carlson, Worden, van Ryn, & Bachman, 2000; Hanson & Wallace-Carpetta, 2000; Moffitt & Caspi, 1999; Powis, 2002; Saunders & Hamill, 2003; Websdale, n.d.

**GUIDELINE 8:**

***Community corrections professionals follow established criteria and protocols for making decisions about the preadjudication release or continuation in custody of intimate partner domestic violence perpetrators.***

**RATIONALE**

Critical points during the adjudication process expose domestic violence victims to a greater chance for harm. A heightened likelihood for victimization prior to trial indicates that justice practitioners should take proactive steps to diminish the danger to the victim during this period. Decision-making about pretrial release of defendants must maintain victim safety and hold the defendant accountable for no further violence. The defendant should not be considered for pretrial release unless the safety of the victim can be reasonably maintained.

Pretrial programs, in particular, have the capacity to intervene during the often volatile period after arrest and before disposition. Defendants are accused of committing a crime but are not yet convicted. Therefore, these persons are presumed innocent, making pretrial detention an especially difficult decision about those presenting a serious level of risk of either offending (especially in domestic violence situations, see Goldsmith, 1991) or failure to appear for trial. The U.S. Supreme Court has ruled (in *U.S. v. Salerno*) that pretrial detention is regulatory, not punitive, which eases many constitutional concerns. According to the National Pretrial Reporting Program, nearly a third of all released defendants “were either rearrested for a new offense, failed to appear in court as scheduled, or committed some other violation that resulted in the revocation of their pretrial release” (Reaves and Perez, 1994: 1). Although specific figures have yet to be compiled for domestic violence offenders receiving pretrial release, domestic violence cases are difficult to assess when making release decisions. Special consideration may be warranted to prevent domestic violence offenders from harassing, violating, or threatening the victim while awaiting trial. Some agencies have developed specific defendant interview forms for domestic violence cases and others require specific “stay away” or no contact orders and verify alternative residences when releasing domestic violence defendants (see Mahoney, et. al., 2001).

**IMPLEMENTATION STRATEGIES**

Specific information about the offense, the defendant’s likelihood of recidivism or escalating danger, and the relationship between the victim and defendant must be obtained and reported to the court, including the following:

- Procedures that can be implemented to prevent contact between the defendant and the alleged victim, if needed, to promote the victim’s safety including the defendant’s access to alternative housing separate from the victim if he is released;
- Existence of any current or past protective orders;
- Defendant’s relationship with the alleged victim, whether they live together, and whether they have children in common;
- Substance abuse problems of the defendant;
- Defendant’s access to, familiarity with, and use of firearms; and
- Pending custody or divorce proceedings.

Exhibit 7-B provides an example of a decision-making process for pretrial release.

*Exhibit 7-B*

**EXAMPLE OF PRETRIAL DECISION MAKING ON DOMESTIC VIOLENCE CASES**

Some agencies conducting pretrial services have expanded their standard pretrial interview forms with an addendum to include questions designed to disclose information for decision making about domestic violence cases. All defendants are screened to determine if their offense was domestic [violence] related. If the case is domestic [violence] related, additional questions are administered. For example, The Kentucky Pretrial Services Agency deducts points for domestic violence defendants as follows (Mahoney, Beaudin, Carver, Ryan, & Hoffman, 2001):

- Minus five points if the defendant has been convicted of any crime of violence,
- Minus five points if the defendant is verified as alcohol or drug dependent,
- Minus five points if the defendant had any protection order filed against him in the last five years,
- Minus 10 points if the defendant has violated a protection order within the last two years (even if not charged), and
- Minus 15 points if the defendant was charged with violating a protection order while in effect.

The Kentucky Pretrial Services Agency interview addendum and instructions for using it are in attachment 7-B.

As discussed in guideline 5, pretrial services officers should contact the victim of an intimate partner domestic violence perpetrator prior to making a decision about recommending release or continued detention of the defendant. (See Chapter 9 for additional information about contacting victims.) The pretrial investigation officer should contact any victim advocacy organization providing services to the victim and coordinate with the advocate when contacting victims. If no victim advocate is providing services, the officer should give the victim information about justice system and community resources, make appropriate referrals, and fully inform her about the justice system process, answering her questions as accurately as possible. Independently of the victim's choice about having contact with the pretrial services investigation officer she must be notified of all custody status changes of the defendant.

A defendant may be released from custody on his own recognizance or under a bond. However, pretrial release from custody, if it occurs, should stipulate conditions of release that promote safety for the victim and accountability for the defendant to commit no further violence, including the following:

- Abide by any protective order in effect.
- Abstain from alcohol and other drug use as verified by random drug/alcohol testing.
- Report as directed for supervision contacts with the pretrial services officer.
- Maintain employment.
- Continue to pay financial responsibilities.

The court may also impose a condition prohibiting contact with the victim and other family members whether or not the victim has a protection order. This condition should be considered after input from the alleged victim and with respect for her reasoning and choices. However, in some cases, the officer may choose to recommend limiting or prohibiting contact even though the victim desires it if, in the officer's judgment, the offender

poses a serious threat to her safety. Pretrial officers should be familiar with, and share with victims, procedures to obtain protective orders, if victims do not have one already.

Monitoring the defendant's compliance with pretrial release conditions may include:

- Requiring office visits by the defendant,
- Making field and home contacts to the defendant (following officer safety protocols),
- Meeting with collateral contacts to secure and verify information, and
- Conducting random drug/alcohol tests.

The officer should maintain contact with the victim—if the victim is receptive to contact—to continue to be an information resource and to make service referrals. The victim's wishes about ongoing contact and disclosure of information she shares should be respected. She should be advised before responding to questions if particular information cannot be kept in confidence by the officer once disclosed by the victim.

Various technologies exist for electronic monitoring of pretrial defendants (as well as adjudicated offenders) such as, programmed contact, radio frequency, and global positioning systems. However, there are cautions for use of these technologies with domestic violence offenders (Crowe, Sydney, Bancroft, & Lawrence, 2002). Often, the decision to release a defendant before trial on electronic supervision must be made quickly without the benefit of all necessary information. Therefore, mistakes may be made in determining the dangerousness of a defendant. In many jurisdictions, use of electronic supervision methodologies is restricted to nonviolent offenders, and by definition, a domestic violence offender may not be eligible. Electronic supervision technologies can track whether an offender leaves a specified location, and the devices can provide the ability to alert a specific victim or a supervision officer if an offender travels into a prohibited geographic zone. Electronic supervision technologies generate information about a defendant's activities, but they cannot prevent him from engaging in those activities. These technologies can support the enforcement of protective orders, and other technologies, such as transdermal alcohol monitoring devices, can help monitor the offender's alcohol use. Both community corrections officers and victims must be informed fully about the limitations of any electronic supervision technology used and should not overly rely upon it to assure safety for the victim.

The defendant may have a condition of no contact with the victim but have legal access to visitation with children they have in common. This visitation can be problematic because the defendant may use it as a vehicle to further victimize his intimate partner or to engage in prohibited contact. Particularly at the pretrial stage there may be no court orders defining the parameters of custody and visitation, and the court of record for the criminal charge may not have jurisdiction to address these issues. Officers providing pretrial services should be familiar with local judicial and community resources for defining custodial and visitation requirements, conducting supervised visitation, and facilitating third party exchanges of children when necessary. Officers can then provide appropriate information to defendants and victims. Community corrections officers should hold defendants accountable for complying with custody and visitation regulations.

**GUIDELINE 9:**

***If a standard risk assessment instrument is used in the agency, protocols are in place to override scores based on the presence of domestic violence risk factors that indicate higher risk.***

**RATIONALE**

Offender risk may be evaluated by administering formal assessment instruments, through evaluation by officers based on their experience and skills, or by the combination of these methods. Consistent with evidence-based practice recommendations, many agencies use standardized assessment instruments to gauge the risk and needs of all offenders under supervision. General instruments used to estimate offender risk levels use actuarial group data to identify probability rates or the likelihood of reoffending for individuals possessing certain combinations of characteristics. Silver and Miller (2002: 139) describe risk assessment instruments as “methods of scoring individuals on a continuum of risk using risk-related attributes, such as drug abuse, criminal offense history, employment status, and childhood exposure to physical or sexual abuse, among others.” Not all offenders with such characteristics are definitely going to reoffend, but they are statistically more likely to reoffend and may warrant greater scrutiny.

Risk instruments analyze offender characteristics that are commonly associated with criminal recidivism to provide practitioners with a tool to assist them when making supervision decisions. The National Council on Crime and Delinquency (NCCD) points out that risk assessments can relieve much of the guesswork for probation and parole officers in determining supervision and program allocation. They go on to state, “rather than treating all offenders entering probation and parole the same, agencies that supervise high-risk cases much more closely than low-risk cases will achieve better results” (NCCD, 2004, p.1). Standardized assessment instruments provide more valid risk assessment than subjective or informal risk assessment procedures (Saunders and Hamill, 2003).

Research on both general criminal reoffending and domestic violence recidivism has shown several risk factors that are consistent among all types of adult offenders and domestic violence offenders including:

- Young age
- Male
- Criminal history
- History of child abuse
- Antisocial attitudes
- Unemployment
- Substance abuse
- Low education

Measures of these risk factors are important in investigating domestic violence offenders and can be detected using many general risk assessment instruments. However, it is important to recognize the limitations inherent in general risk assessment instruments when evaluating the risk an intimate partner domestic violence offender poses to his victim. Other risk factors should be investigated with domestic violence offenders (e.g., separation from the victim, access to firearms, sexist attitudes, stalking, forced sex, pregnancy of victim, presence of stepchildren, offender depression; see other risk factors listed in exhibit 7-A), especially if a standardized instrument produces a low risk score. Low risk scores on traditional risk assessment instruments often provide a false estimate of risk

for domestic violence offenders who may be able to present themselves well in clinical examinations. A low risk score on a generic assessment instrument for community supervision should not warrant reduced supervision independent of other information gathered during investigations. Domestic violence offenders have the potential to escalate their violence and become higher risk. (Further information on assessment instruments is provided in the supplemental readings.)

## IMPLEMENTATION STRATEGIES

A community corrections officer needs to consider the risk identified by assessment instruments, the information disclosed during clinical examination, and information supplied by the victim and other sources to develop case planning and supervision strategies. If the agency uses a general standardized risk assessment instrument for all offenders, community corrections professionals should have the discretion to override scores on these instruments used for classification of risk for supervision and impose higher levels of supervision on domestic violence offenders if other signs indicate the presence of risk factors that are not measured by the instrument.

### GUIDELINE 10:

***Community corrections professionals periodically reassess offenders convicted of and supervised for other crimes to identify those who are also abusing their intimate partners.***

## RATIONALE

General criminality and domestic abuse are highly correlated, so offenders who are not being supervised specifically for domestic violence offenses still might be domestic abusers. The fact that many abusers are under correctional supervision or are involved in the criminal justice system has been documented in extensive national crime victimization surveys (Greenfield, et al., 1998) and in state and local studies as well (see Klein, et al., 2005). For example, a study of police night shifts in Memphis documented that two-thirds of those involved in domestic violence incidents were already on probation or parole (Brookoff, 1997).

Almost 5,000 defendants under the supervision of Rhode Island probation for domestic violence offenses in 2003 were studied. More than three-quarters (77.5%) had an average of three prior arrests that resulted in court arraignments before the domestic violence charge that resulted in their being placed under probation supervision. Most (55%) had records for crimes against persons, including 46% with prior crimes of domestic violence; a quarter (27%) had prior alcohol and drug crimes. More than half (51%) had been under probation supervision previously (Klein, Wilson, Crowe, & DeMichele, 2005).

Most (69%) of a sample of offenders in Toledo, Ohio, had a prior arrest for at least one violent misdemeanor, including prior domestic violence, averaging 3.1 violent misdemeanor arrests. More (89%) had at least one prior arrest for a nonviolent misdemeanor averaging 14 prior non-violent misdemeanor arrests. More than a quarter (26.4%) had at least one prior violent felony arrest and almost half (48.9%) had at least one prior nonviolent felony arrest (Ventura & Davis, 2004).

A sample of 5,747 restraining order violators (constituting a misdemeanor crime in Massachusetts punishable up to two-and-one-half years in a house of correction) were researched over several years. Eighty-six percent had a substance abuse problem based on prior treatment records; 22% had prior drunk driving convictions. The vast majority (80%) had a prior criminal history, with 69% having been arraigned for at least one nondomestic, but

violent, offense and 43% having two or more such offenses. One-third had a history of prior weapons charges as well (Bocko, Cicchetti, Lempicki, & Powell, 2004). In another study, two-thirds had a prior record of a criminal conviction; half had a prior arrest for domestic violence, and 41% had at least one prior felony conviction. Thirty percent had a prior protective order violation prosecuted as a criminal contempt, and more than a quarter had at least one prior drug conviction (Newmark, Rempel, Diffily, & Kane, 2001).

## IMPLEMENTATION STRATEGIES

Nondomestic violence offenders on community corrections should be assessed to identify abusers. If offenders are identified as domestic violence abusers, they should be supervised appropriately to promote victim protection.

To investigate for concurrent domestic violence among offenders not charged with these crimes, check the following sources for incidents involving the offender:

- Arrest records noting the relationship with the victim on interpersonal violence crimes.
- Arrest records for other crimes (e.g., driving under the influence, substance abuse charges, property damage, vandalism, burglary, or stalking at a residence where an intimate partner may live).
- Protective order registries.
- Police reports and 911 calls.
- Information about family court actions including divorce and child custody.
- Findings in any of these areas should raise concerns, prompt further investigation of possible intimate partner abuse, and result in interviews with both offenders and possible victims to obtain more details about the incidents.

### GUIDELINE 11:

*Investigation of domestic violence offenders is ongoing with new information, violations, pending hearings, or reports from programs prompting immediate scrutiny. Program personnel regularly check for existing or new protective orders or indicators of new criminal conduct and respond to these by investigating them and intervening appropriately.*

## RATIONALE

If offenders are going to continue their abusive behavior, many will do so quickly and while they are still under supervision. Numerous studies document rates of reabuse among domestic violence offenders ranging from 24 to 60 percent of cases (Klein, Wilson, Crowe, & DeMichele, 2005; Buzawa, Hotaling, Klein, & Byrnes, 1999; Holtzworth-Munroe & Meehan, 2004; Aldarondo, 2002). Studies also indicate that the majority of offenders who reabuse their partners do so within six months of beginning probation and/or a batterer program (Klein et al., 2005; Gondolf, 1987, 1997a, 1997b). Findings on reabuse and recidivism rates are affected both by the measures used (i.e., arrests, convictions, new protective orders filed, victim reports) and the period for which measurements are taken.

## IMPLEMENTATION STRATEGIES

Case investigation should be ongoing and proactive. If new indications of abuse are revealed, community corrections professionals should verify the information and take swift action to inform the court and/or initiate violation proceedings. During the course of supervision of the offender, the community corrections officer should

routinely seek new information about the offender from a variety of databases as well as other sources including the offender, the victim, the victim's advocate, batterer intervention programs, treatment agencies, the offender's employer, police, prosecutors, courts, and other collateral sources. Each new piece of information should contribute to the overall ongoing investigation and supervision of the offender and should be used to continue the evaluation process. Community corrections professionals should look particularly for:

- New protective orders issued to the same or new partners.
- Protective orders requested by the offender (to see if these indicate a reprisal against an intimate partner).
- Police calls to a partner's address.
- New arrests.
- Civil court actions such as custody disputes or child support enforcement orders.

These all might indicate that the offender is continuing to abuse the same or a different victim.

With automated data systems and good collaborative relationships with other justice system and community service providers, it is easier to set in motion some regularly scheduled checks for new information about offenders' behavior. Access to a variety of computer systems, such as the national protective order registry, could allow for a periodic check using the offenders' and victims' names. Clerical staff, student interns, or volunteers might perform these searches, saving officers' time. Exhibit 7-C provides an example of an integrated system in New York being used to match individuals involved in new cases of domestic violence with a database of adult probationers.

#### *Exhibit 7-C*

### **NEW ACCESS TO REPORTS PROTECTS DV VICTIMS**

In late January the Department of Probation signed an MOU with the NYPD that will enhance the Department's ability to protect the victims of domestic violence.

Under the agreement NYPD officers now match the names of all suspects in domestic violence incidents with a database of adult probationers. When the police officer finds a match, he or she notifies designated Probation staff that a probationer has been involved in a domestic violence incident, even if the probationer was not arrested. Prior to this agreement, Probation would get a "hit notice" when a probationer was arrested but might not know that a probationer was involved in a domestic violence incident if no arrest was made.

The Domestic Incident Reports (DIRs) go to designated personnel, including Intel/Warrants and the Department's Domestic Violence Coordinator and are then forwarded to the Probation Officer supervising a particular case. Depending on the severity of the incident, a decision is made whether to seek a forthwith warrant or to schedule an administrative hearing for the probationer.

If the probationer has been arrested, the Department can ask the judge to hold the defendant pending a violation of probation hearing, even if the defendant is able to make bail on the new charge. Barbara Bonura, the director of the Intel/Warrants Unit, said the DIRs are particularly useful in cases where a probationer is accused of stalking or violating an order of protection.

Director Bonura said the heightened level of cooperation "will enable the Department to move quickly before a victim ends up dead or seriously injured."

The Assistant Commissioners from each borough have met with their respective judges in an effort to enlist their cooperation in locking up probationers that get involved in domestic violence.

*New Access to Reports Protects DV Victims. (2005, July). Probation Today, 4 (2), 1-2.*

Exhibit 7-D provides a summary of a program developed in Hennepin County (Minneapolis), Minnesota to track and respond to instances in which domestic violence probationers are gone from the scene when police arrive.

*Exhibit 7-D*

### SUSPECT GONE-ON-ARRIVAL (GOA) DOMESTIC VIOLENCE REPORTS HENNEPIN COUNTY DEPARTMENT OF COMMUNITY CORRECTIONS

Studies consistently report that half of domestic abusers flee before police arrive on the scene.<sup>1</sup> A Massachusetts study shows that those perpetrators who flee the scene are at higher risk to repeat the violence than are those that stay: they had twice the number of past criminal charges, twice the recidivism rate, and had statistically more crimes of violence and prior protective orders than those who stayed.<sup>2</sup> While some jurisdictions make no effort to follow up on these cases, at least one state has made it a crime to leave the scene of a domestic assault.

In cooperation with the Minneapolis Police Department (MPD), the Hennepin County and Minneapolis City Attorney's Offices, the Hennepin County Department of Community Corrections is engaged in a collaborative effort to examine those cases in which police respond to a 911 domestic related call and find the suspect gone on arrival (GOA). The responding officers prepare a police report on GOA cases, which is forwarded to the Domestic Abuse Service Center (DASC) for review each morning by the City or County prosecutor on duty. If the case warrants further investigation it is assigned to an investigator in the MPD Family Violence Unit, or the victim is contacted by the paralegal for further information. The GOA cases are also presented to the DASC Probation Officer for review against the probation data bases.

Probation's Response to GOA's: While GOA incidents are not always charged out as new court cases, the behavior documented in the police report is significant to probation officers and other criminal justice practitioners who are working to intervene on illegal behavior and promote public and victim safety. When a case is identified as being on active status in either the AFS-SMS data base, or the Statewide Supervision System, the DASC Probation Officer immediately notifies any active agent and forwards a copy of all available reports.

***The agent of record should do the following:***

1. Identify and describe the incident, the location, and the parties in the chronological record maintained for the client (whether alleged perpetrator or victim). This documents the police involvement, whether or not further action is possible at this time, and helps to establish any pattern of behavior. Arguably, any police contact or attempted contact has a relevant place in probation records, whether or not the case under supervision is domestic in nature.
2. Review all existing probation conditions against the information in the police report: are there conditions (no contact with victim, no use of alcohol or drugs, etc.) which seem to have been violated during this incident? If so, consider an A&D identifying those violations, recognizing that the standard of proof (clear and convincing) for a violation is less than for a new conviction (beyond a reasonable doubt).
3. Assess victim safety issues: has a referral been made to an advocate? Is the victim currently at risk for further harm? Are there notifications which should be made to this victim? Is there a current protective order?
4. Address this issue with your probation client in a proactive way: if they are the alleged perpetrator, explore appropriate interventions within the context of your supervision plan; if your client is the alleged victim, make appropriate referrals for safety planning. If there is an Order for Protection, obtain a copy and review it with your client.
5. No incident which resulted in a 911 police call should be ignored while an individual is on active probation to the court.

**GOA Case Tracking:**

The DASC Probation Officer maintains a data base which documents GOA's on active probation cases. The data base is designed to identify the alleged perpetrator, their probation status, the supervising probation agent (agent of record), the GOA dates and dates of submission to the agent of record, and the action taken by that supervising agent. If the agent of record does not address or document the incident in some way, the DASC Probation Officer will do so, in order to preserve an accurate record of probationer conduct.

There are a number of similar projects under way at DASC in cooperation with our coordinated criminal justice response partners (such as identifying all cases appropriate for felony enhancement charging, among others) in an effort to close gaps in our system and promote offender accountability and victim safety.

<sup>1</sup> Klein, Andrew R., National Bulletin on Domestic Violence Prevention, Vol. 6, No. 5, May 2000, p. 1

<sup>2</sup> Buzawa, E., Hotaling, G., Klein, A. & Byrnes, J. (1999). Response to Domestic Violence in a Pro-Active Court Setting, University of Massachusetts Lowell, funded by NIJ under grant #95-IJ-CX-0027.

**GUIDELINE 12:**

***Community corrections professionals independently verify information provided by victims that will be used in sentencing or sanctioning offenders.***

**RATIONALE**

Although the victim may be an eyewitness to events constituting the offender's violation of his community supervision conditions, she may be at great risk if she reports it or is called upon to testify. The more officers can independently verify evidence of violations, not disclosing information received from the victim, the more likely she is to remain safe.

**IMPLEMENTATION STRATEGIES**

Community corrections personnel should gather information independent of reports from the victim to develop recommendations for sentencing and supervision conditions, formulate the case supervision plan, monitor the offender's compliance, justify imposition of sanctions, and provide evidence and testimony in court. This is an area that calls for a great deal of skill and creativity on the part of officers.

Officers can and should use information provided by the victim in confidence to direct efforts toward independent verification of the disclosed information. For example, if the victim reports the offender has resumed alcohol use but asks the officer not to tell the offender she reported it, the officer can find out where the offender drinks and directly observe the violation. For reported drug use, the officer can conduct drug testing. Telephone records can document unauthorized contact with victims when there is a no-contact order in place. Hospital or doctor's reports can verify injuries to victims. Pictures taken during a home contact can document damaged property. A home search (conducted in accordance with agency legal and safety policies) may expose the presence of firearms or other illegal items. In some cases, polygraphs have been used to obtain information from offenders and ascertain their veracity.

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*Attachment 7-A***SAMPLE VICTIM IMPACT STATEMENT LETTER FOR PROBATION AGENCIES**

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Dear: \_\_\_\_\_

The Court has directed the Department of Probation to prepare a report on the offender, \_\_\_\_\_, found guilty of committing a crime against you. That report will be used by the Judge as an aid in determining his/her sentence. The report will contain the offender's legal and social background. It may also include information on the impact of this crime on you. Although you may have already given statements to police or prosecutors, it is important that we insure that your information is presented to the court.

As the victim of this offense, you are entitled to have your feelings about the crime and how it affected you and your family presented in this report. You are also entitled to include documentation of any injury, damages, and/or economic loss you suffered as a result of this crime. You are entitled to seek reparation or restitution for losses incurred. You may find it helpful to discuss your feelings about this crime with me. It is important for the court to have this information for sentencing.

Under law you are not required to supply information for the preparation of our report, including the Victim Impact Statement. Please be aware that the offender or his attorney may gain access to information included in the Victim Impact Statement. Should you be concerned about the content of any information provided to us, we can request that the court not disclose such information, but this decision lies with the court.

This report must be completed by \_\_\_\_\_. In order to include a verbal statement from you, we must speak prior to that date. I have set aside time on \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_ to meet with you in my office. If you are not available on the above date, please call me at \_\_\_\_\_ to schedule an alternate time. If I am not available when you call, please feel free to leave a voice mail message indicating your telephone number and a time when I may contact you. If you must speak to someone immediately when you call, you may call \_\_\_\_\_ and ask for a supervisor.

You may submit a statement to me in writing instead of, or in addition to speaking with me. If you wish to submit a written statement, please send it to me at the address printed above. I must receive your response by \_\_\_\_\_ so that it can be included in the report to the court. Enclosed, for your information, is a list of service resources that may be of assistance to you.

I look forward to hearing from you.

Thank you,

Your Name  
Probation Officer

(NYS PDVIR, 2004)

## DOMESTIC VIOLENCE VICTIM IMPACT STATEMENT

*(Items marked with "\*" should be completed, if known, before sending to the victim)*

\*Offender's Name: \_\_\_\_\_ \*Docket/SCI/IND #: \_\_\_\_\_

\*P.O.: \_\_\_\_\_ Date of Completion: \_\_\_\_\_

\*Victim's Name: \_\_\_\_\_ \*Age of Victim: \_\_\_\_\_

The Court has ordered the probation department to provide a report to help the Judge sentence the offender. The Judge wishes to know how you feel about the crime and how it has affected you and your family. It is your right to have the information you are providing included in the report to the Court. It is also your right to request that this information not be released by the Court to the offender. As the agency in charge of preparing the report, we can recommend that this information be concealed from the offender and his attorney. However, the Court could still decide to disclose this information to the offender. You are entitled to a copy of what you have contributed to the report. If you have other litigation in progress, you are advised to inform your attorney about this form. This form contains a few questions about your children. You are not required to provide any information to the court. If you would like to complete this impact statement form, you are free to not answer any question(s) on this form—including questions concerning your children. Probation personnel are required by law to report any suspicion of child abuse or neglect to Child Protective authorities.

### GENERAL INFORMATION

**\*A.** The information we have indicates that:

1. As the result of a Criminal Court Complaint being filed on \_\_\_ / \_\_\_ / \_\_\_, the offender has been found to have committed the crime of \_\_\_\_\_ and the court has set a sentencing date of \_\_\_ / \_\_\_ / \_\_\_.

OR

2. As the result of a Family Court Petition being filed on \_\_\_ / \_\_\_ / \_\_\_, the Respondent has been found to have committed a Family Offense and the Court has set a disposition date of \_\_\_ / \_\_\_ / \_\_\_.

**B.** Are there any additional comments you would like to make about what happened? Would you please describe what happened during the commission of this crime?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**C.** Our records indicate that you knew the offender before the crime. How were/are you related?

Relationship \_\_\_\_\_ Length of time: \_\_\_\_\_

If married, date of marriage: \_\_\_\_\_ Date of separation/divorce: \_\_\_\_\_

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## I—PHYSICAL INJURIES

A. Were you injured? Yes \_\_\_\_ No \_\_\_\_ (If “no”, skip to Section III)

1. If “yes”, please describe.

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2. Have your injuries affected your job, daily routine, or your family? Yes \_\_\_\_ No \_\_\_\_  
If “yes”, how?

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3. Did you or your family **need to receive** any form of medical treatment or counseling as a result of this crime?  
Yes \_\_\_\_ No \_\_\_\_ If “yes”, please describe.

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4. If your answer to #3 is “Yes”, were you **able to receive** any form of medical treatment or counseling?  
Yes \_\_\_\_ No \_\_\_\_ If “yes”, please describe.

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5. Were your medical/hospital/counseling costs covered by insurance, Medicaid or Medicare?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

If “no”, what was the amount you had to pay? \_\_\_\_\_

If part was paid by insurance, how much did you pay? \_\_\_\_\_

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## II—PSYCHOLOGICAL EFFECTS AND TREATMENT

A. Have you or your family experienced loss of sleep, nightmares, irritability, changes in eating patterns, flashbacks, or other problems as a result of the crime? Yes \_\_\_ No \_\_\_

If “yes”, please explain.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**BEFORE YOU ANSWER THE NEXT QUESTION, PLEASE REMEMBER THAT PROBATION OFFICERS ARE REQUIRED TO REPORT SUSPICION OF CHILD ABUSE AND/OR NEGLECT TO CHILD PROTECTIVE AUTHORITIES.**

B. Has the crime affected you or your children or other family members in any way not already discussed? Yes \_\_\_ No \_\_\_

If “yes”, describe how (mood changes, school or behavioral problems, fears, bedwetting, etc.).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. Has the offender or anyone connected with him/her threatened you or anyone else close to you in any way since the crime? Yes \_\_\_ No \_\_\_

If “yes”, what happened, when, where, how?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1. Have you ever filed for or been issued an Order of Protection against the offender?

Yes \_\_\_ No \_\_\_

If “yes” and one was issued, is it active? Yes \_\_\_ No \_\_\_

If “yes,” check the Court that issued the Order of Protection:

\_\_\_ Family Court    \_\_\_ Criminal Court    \_\_\_ Supreme Court

Please name the location or Court: \_\_\_\_\_

City/Town/Village \_\_\_\_\_ County \_\_\_\_\_ State \_\_\_\_\_

You are entitled to request that an Order of Protection be issued at the time of sentence/ court disposition. Please indicate if you wish to request an Order of Protection:

Yes \_\_\_ No \_\_\_

2. Did you have to move or hide as a result of this crime? Yes \_\_\_ No \_\_\_

If “yes,” why?

\_\_\_\_\_

\_\_\_\_\_

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### III—PROPERTY LOSS/DAMAGE AND OTHER EXPENSES

#### A. Property Loss

1. Was there any loss of property or cash? Yes \_\_\_ No \_\_\_  
If “yes”, describe and indicate value of loss.

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2. Were you reimbursed by an insurance company? Yes \_\_\_ No \_\_\_  
If “yes”, indicate company name, address, claim #, and amount.

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#### B. Property Damage

1. Was any property damaged as a result of this crime? Yes \_\_\_ No \_\_\_  
If “yes”, describe and indicate estimated/actual costs of repair.

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2. Were you reimbursed by an insurance company? Yes \_\_\_ No \_\_\_  
If “yes”, indicate company name, address, claim number, and amount.

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#### C. Loss of Wages

1. Did you lose any wages as a result of this crime? Yes \_\_\_ No \_\_\_  
If “yes”, please explain.

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2. Did you lose your job or position or benefits as a result of this crime?  
Yes \_\_\_ No \_\_\_  
If “yes”, please explain.

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**D.** If you had to leave your residence, did you have losses or costs that were not paid for because you had to leave, even temporarily (moving expenses, housing costs, including lock replacement/repair, security deposit, broker's fee, gas/electric installation, telephone installation, heating, furniture/household purchases, carfare or auto expenses for self/children, emergency child care, medical/dental expenses, medication for self/children, school costs for children, training/vocational counseling or any other expenses caused by having to relocate)? Please explain.

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**E.** Did you experience any other financial losses or obligations? Yes \_\_\_ No \_\_\_  
If "yes", please explain.

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**F.** Crime Victim's Board: New York State Executive Law, Article 22, creates a process whereby crime victims have a right to certain kinds of compensation and assistance.

**1.** Have you applied for compensation from the New York State Crime Victim's Board to cover expenses that resulted from this offense? Yes \_\_\_ No \_\_\_

**2.** If "yes", what is the status of your application (please check one):  
\_\_\_ Awarded (amount \$ \_\_\_\_\_) \_\_\_ Pending \_\_\_ Denied

**G.** Have you already received any other form of reparation or restitution payments, ordered by any court, relating to this criminal incident? Yes \_\_\_ No \_\_\_. If "yes", please explain:

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## IV—SENTENCING / DISPOSITIONAL INFORMATION

A. What sentence do you feel is appropriate for this crime? What would you like to see happen?

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B. Amount of Reparation or Restitution sought. If monetary, specify dollar amount. If non-monetary, please describe.

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C. Are you requesting that the court order any special conditions on the offender to promote your safety (for example, an Order of Protection)? Yes \_\_\_ No \_\_\_

If "yes", please explain:

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D. Do you wish to be notified of actions taken by the court at sentencing? Yes \_\_\_ No \_\_\_

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## V—SPECIAL CONCERNS AND CIRCUMSTANCES

A. 1. When did the abuse begin? Date: \_\_\_\_\_

How did the abuse begin (name calling, pushing, shoving, jealousy, isolation or separation from family/friends/car/ telephone, hitting, kicking, slapping, using threats, coercion, forced sexual contact, intimidation, breaking things, using the children, other)?

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. What was the most serious incident that you experienced?

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

B. Did he/she do this to you more than once? Yes \_\_\_ No \_\_\_. If “yes”, please explain.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

C. Has the offender ever been under the influence of drugs or alcohol when he/she was abusive? Yes \_\_\_ No \_\_\_

Has the offender ever been under psychiatric care? Yes \_\_\_ No \_\_\_

Has the offender ever threatened/attempted suicide? Yes \_\_\_ No \_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

D. Does anyone else know about the abuse? Yes \_\_\_ No \_\_\_. If “yes”, who?

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

E. As a result of this offender’s abuse, did you ever have to:

1. Leave your house/apartment temporarily? Yes \_\_\_ No \_\_\_ Date(s) \_\_\_\_\_

2. Leave your house for an extended period? Yes \_\_\_ No \_\_\_ Date(s) \_\_\_\_\_

3. Enter a Domestic Violence shelter? Yes \_\_\_ No \_\_\_ Date(s) \_\_\_\_\_

F. Not including the crime for which this report is being prepared, did you ever have to call the police regarding this individual? Yes \_\_\_ No \_\_\_

If "yes", please indicate how many times, whether charges were filed and indicate if any of these acts occurred in another state.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

G. Is the offender known to own, possess, or have access to firearms, ammunition, or other dangerous weapons? Yes \_\_\_ No \_\_\_

If "yes", please explain and describe the weapon(s) as much as possible.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. Is the offender known to have a hunting license or pistol permit in this state or any other state? Yes \_\_\_ No \_\_\_ If "yes," please identify the state and type of license/permit.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Are you and the offender living together now? Yes \_\_\_ No \_\_\_

a. If "no", does the offender still have access to you? Yes \_\_\_ No \_\_\_

If "yes", please indicate all locations:

Work \_\_\_\_\_ Home \_\_\_\_\_ Telephone \_\_\_\_\_ Relatives \_\_\_\_\_ E-Mail \_\_\_\_\_

Other (specify) \_\_\_\_\_

b. If the offender has been prevented by an Order of Protection to be in the home or near you, has he/she tried to return to your home or followed you anywhere?

Yes \_\_\_ No \_\_\_ If "yes," please explain.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BEFORE YOU ANSWER THE NEXT QUESTION, PLEASE REMEMBER THAT PROBATION OFFICERS ARE REQUIRED TO REPORT SUSPICION OF CHILD ABUSE AND/OR NEGLECT TO CHILD PROTECTIVE AUTHORITIES.**

- H.** If children are present in the home have they ever witnessed you being harmed or threatened by the offender?  
Yes \_\_\_ No \_\_\_ If "yes," please explain.

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Where are your children living now?

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- I.** Has a child abuse or neglect case ever been reported to Child Protective authorities?  
Yes \_\_\_ No \_\_\_

If "yes", please explain and include the name of the Child Protective Investigator.

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- J.** Is there a current or recent custody, visitation, or support matter before the Family Court or Supreme Court?  
Yes \_\_\_ No \_\_\_

If "yes", please explain and tell us who currently has custody.

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- K.** Do you wish to make any other comments or add any other information?

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\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

*(NYS PDVIR, 2004)*

*Attachment 7-B***INSTRUCTIONS FOR INTERVIEW ADDENDUM**

*Rcr 4.08 makes the information obtained for the interview process, and subsequent contact, confidential. The interview addendum is an extension of the interview and is therefore protected under that same provision.*

The Kentucky Pretrial Services Interview Form has been revised and expanded to incorporate information and criteria to assist the judiciary of this state make informed decisions pertaining to release of individuals charged with offenses involving domestic issues. The Interview Addendum concept has been researched with known experts in the field of domestic violence on a national basis. The questions and format are designed to extract critical data about relationships, current and past obligations, and the history of violence in those relationships.

Factors involving the most critical issues have been weighted and assigned numeric values consistent with our current objective point system. These issues are designed to be verified through personal interview techniques, contact with verifiers, and available record checks. This form will evolve over time as our current interview form and policies have in the last eighteen years. Your attention to the detail involved, the importance of the issue, and your professionalism will determine the success of this process.

The first issue is to identify the cases in which the addendum is needed. Any case that involves violence, or threats of violence, in a domestic relationship will require the completion of the addendum. This can be determined by the nature of the charges on the citation or warrant, the presence of the JC-3 in support of the citation, and the description of the offense. If these sources are not available, a question has been added (which must have a response on every interview completed) asking, "Are the current charges domestic related?" If the defendant admits the domestic nature of the offense then the addendum block will be checked and the form completed. **You should not complete this form unless mandated by this policy.**

***Note:** The offense charged could be limited to Disorderly Conduct but the offense description on the citation could explain a domestic call made to a public place resulting in an arrest. This type of situation will prompt the need for the addendum.*

***Note:** KRS 403.720 defines family member as "spouse, including a former spouse, a parent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree; and member of an unmarried couple who are living together or have formerly lived together."*

The addendum should begin with the name, date of birth, and social security number of the defendant. This will assist in the matching of the addendum to the proper interview in the event they are temporarily separated. The interviewer should also sign, date, and time the addendum.

***How long have you lived with the person/spouse?***

We are looking for the total length of time a common residence has been shared with the person in years and months.

***Do you have any children from this relationship?***

We are looking for significant ongoing bonds between the individuals and the number involved.

***Do you have any children by previous relationships?***

We are looking for deeper obligations on the defendant's part, the extent of the obligations, and a potential pattern of conduct that may be experienced should this relationship end.

***Are you presently separated?***

We are looking for the current status of the relationship. The time period involved may be an indication of significant changes over a very short time span that is resulting in conflict, or conversely, a continuing pattern of conduct over an extended period.

***Which one of you arranged for a new residence?***

We are looking for who has been forced to change their lifestyle through the process of separation. If the other individual has been forced to seek shelter it may be an indication of the extent of the violence they are attempting to escape. If the defendant has been forced to move it may have heightened their anger over the displacement.

***List new address and phone number.***

If the defendant has knowledge of the location of the other party's address, this may indicate both the desire and ability to seek them out. Information on the citation may indicate the offense happened in close proximity of the new residence. If the defendant is aware of the phone number of the other party it increases access to contact, harass, and intimidate those involved. The lack of knowledge may indicate the secretive approach the other individual has undertaken to protect themselves from future violence. If the defendant has relocated it may give an indication of their perspective on the separation. An address at a motel may indicate a very recent relocation, heightening the chance of confrontation, or the perception on the defendant's part that the separation will be of short duration.

***Do you think this relationship will continue?***

We are looking for what the defendant believes the future of the relationship holds. Violence in domestic relationships is generally viewed as a mechanism of control over the other individual. If the defendant believes that this control is permanently lost, it is potentially the most dangerous time for the individual subjected to violence.

***Previous persons/spouses: list.***

We are looking for the existence of previous relationships, and the names involved for potential court orders. This may be an indicator of past spouses seeking relief from violence or other noncompliance with court process.

***Do you pay child support on children from other relationships?***

We are looking for the defendant's willingness to comply with financial obligations ordered by the court.

***What is your income per week?***

We are looking for the defendant's ability to meet these and potential future obligations. Inability to meet these requirements may induce significant stress to all of these relationships.

***Have you or your spouse filed for divorce?***

We are looking for an indication of violence subsequent to the defendant's realization that the formal relationship is in the process of dissolution. This may indicate an attempt to regain control of the individual before final court action has occurred, or violence due to the permanent loss of control. Either of these possibilities should raise serious concerns about the escalating potential for violence.

***Date filed.***

We are looking for the proximity of the current act to the date of filing or notification. Short time frames may again be a sign of desperation and long periods of time an unrelenting attitude on the defendant's part to return things to "normal." If the divorce involves the other person, and it is now final, the date filed should be used to indicate the date the divorce decree is issued and final.

***What are your current terms for support and visitation, if they exist?***

We are looking for the level of obligation the defendant holds in this matter. Visitation also brings the two parties into ongoing contact, and potentially conflict, which may need to be addressed in any release decision.

***Education level.***

We are looking for the level of education of the defendant.

***Military experience.***

We are looking for potential weapons training.

***Branch.***

We are looking for the segment of the armed forces in which the defendant served. This will assist in confirmation of information if required.

***Type/date of discharge.***

We are looking for the method of release from the military (honorable, dishonorable, general, medical, etc.) and date of the discharge. A dishonorable discharge with a recent date could be further indication of instability. Any discharge occurring recently, coupled with violence, may be an indication of turmoil and instability on the defendant's part.

***Have you been or are you going to counseling?***

We are looking for an indication that the defendant has recognized problems exist, and seeks assistance to resolve the situation. This may also relate to a potential type of release.

***If so, what type, where, and how often?***

We are looking to identify if the counseling is related to both parties in this matter seeking to resolve the problems, the success of these attempts (if joint), etc. If individual counseling is being sought this may be an indication of the defendant dealing individually with domestic problems, and the success of these attempts.

***Was counseling court ordered?***

We are looking for resistance to dealing with the problem. Court-ordered counseling would indicate the seriousness of the situation has resulted in formal court action.

***Was counseling for substance abuse?***

The presence of substance abuse, by the defendant, heightens the possibility of violence due to diminished personal control.

***Did you observe domestic violence in your home while growing up?***

Most studies of violent behavior, and its origin, indicate the presence of violence during childhood years leads to similar behavior as an adult.

***Were you subjected to abuse when growing up? What type?***

Again, the presence and nature of abuse during this period may lead to that behavior as an adult.

*The following questions are to be asked of the defendant and verified with the individuals listed on the primary interview. You may want to seek additional verifiers to verify this addendum.*

***Have you ever been arrested for domestic violence or assault? Location and year.***

We are looking for arrest information that will indicate the time, location, and nature of violence on the defendant's part (this is not limited to violence in domestic situations). If the defendant indicates conviction on any violent crime, points can be deducted without court.

***Are you currently under an EPO, DVO, CO, or RO?***

We are looking for their acknowledgment that a court order is in existence.

***Who is the affiant?***

We are looking for the name of the individual that brought the complaint against them. Does that information relate to the current charge?

***Where did it occur?***

Where was the order issued?

***Relationship.***

We are looking for the relationship to the party in the complaint.

***Have any of the above been filed against you in the past?***

When/where. We are looking for a history of court orders pertaining to violence, time frame, and location.

***Does a divorce decree keep you from being around someone involved?***

We are looking for formal dissolutions, by the court, affecting physical restrictions on the defendant.

***Do you drink alcohol? Daily, weekly, monthly, occasionally? Explain.***

We are looking for alcohol use and its frequency.

***Are you currently taking prescription medication? What type and for what?***

We are looking for prescription drug usage, specifically mood altering medication, to cope with stress, depression, etc. This may be an indication of an inability to cope with current circumstances and lead to confrontations while under the influence of prescribed medications. Medical conditions are secondary considerations.

***Do you feel you could use alcohol or drug treatment?***

We are looking for an acknowledgment of dependency from the defendant that will assist the court in release decisions. An affirmative answer may be a strong indicator that the individual will not have full control over themselves if released unsupervised.

***If released, where will you live? With whom? Address? Phone number?***

We are looking for a specific and verifiable address where the defendant will live while the case remains active (or the order remains in effect). Who they will live with and how they can be contacted. *Note: A residential address must be verified with the individual where they will be staying. Without this verification the defendant cannot be program eligible.*

**POINTS**

- 5 **Convicted of any crime of violence**—This may be deducted regardless of the victim's relationship to the defendant, has no time limit, and may be deducted for each conviction involving violence (even within a single case).
- 5 **Verified alcohol or drug dependency by agency policy**—This may result in deduction if the defendant indicates they feel they could use alcohol or drug treatment, a verifier indicates they may need treatment, or there are more than two convictions related to alcohol or drug involvement within the last five years.
- 5 **Had an EPO, DVO, CO, or RO filed against them in the last five years**—This will result in deductions regardless of the outcome of the hearing. If an EPO becomes a DVO after court ruling this will be treated as one occurrence. Multiple EPO's within the time frame will result in multiple deductions.
- 10 **Violated an EPO, DVO, CO, or RO within the last two years**—Any indication of violation of court orders within the time frame will result in this deduction. Multiple occurrences will result in multiple deductions.
- 15 **Charged with violating an EPO, DVO, CO, or RO while in effect**—If the defendant is charged with violating an order, while active, this category will be used.

\_\_\_\_\_ **Total points carried forward to Interview Point Category C**—Tally points on addendum and list in point total "C," and determine final eligibility.



# CHAPTER EIGHT

CHAPTER EIGHT

## Guidelines for Community Supervision and Enforcement

### GUIDELINE 13:

*Recommended sentences, supervision conditions, and case plans match the level of appraised risk and provide community corrections personnel with the tools and authority needed to hold offenders accountable and promote victim safety.*

### GUIDELINE 14:

*The process of moving cases through investigation, sentencing and intake is expedited so that supervision begins as soon as possible.*

### GUIDELINE 15:

*Initial supervision is intensive and occurs within a context of ongoing evaluation of risk; differential supervision and intervention options are implemented based on risk level changes. Supervision strategies should foster victim safety, offender accountability, and offender behavior change.*

### GUIDELINE 16:

*Offenders are required to maintain abstinence from alcohol and other drugs.*

### GUIDELINE 17:

*Offenders are required to relinquish firearms or other known weapons.*

**GUIDELINE 18:**

*Community corrections professionals are aware of stalking behaviors and the threat they represent to victims and employ supervision strategies that prohibit stalking by the offender and promote victim safety.*

**GUIDELINE 19:**

*Community corrections professionals thoroughly document activities, findings, and problems related to case supervision.*

**GUIDELINE 20:**

*Protocols and strategies are adapted as needed to be culturally sensitive.*

**GUIDELINE 21:**

*Community corrections personnel remain vigilant about their own and others' safety during the course of supervision.*

**GUIDELINE 22:**

*Community corrections professionals impose immediate responses for any violations of supervision conditions.*

**GUIDELINE 23:**

*Warrants for violators and absconders are processed and served expeditiously.*

**GUIDELINE 24:**

*Procedures are followed for promoting victim safety when a cross-jurisdictional placement and supervision of a domestic violence offender is requested or carried out.*

**GUIDELINE 13:**

*Recommended sentences, supervision conditions, and case plans match the level of appraised risk and provide community corrections personnel with the tools and authority needed to hold offenders accountable and promote victim safety.*

**RATIONALE**

Community corrections professionals may have the opportunity to influence decision making during the prosecution and sentencing phase of the criminal justice system if they conduct presentence investigations and make recommendations to the court. Community corrections professionals do have control over offenders during the supervision process by making case plans, monitoring offenders' behavior, and applying further sanctions as needed. Case management plans should be based on an offender's risk level and treatment needs, which are determined through ongoing assessments and investigations.

Community corrections professionals supervising a domestic violence caseload must consider more than the level of the current charge when making supervision decisions. Domestic violence cases are rarely prosecuted as felonies, but instead offenders are usually convicted of a misdemeanor. This charge designation, however, may not adequately describe the seriousness of the current offense. Given what is known about typical relationships involving domestic violence, these convictions are not necessarily the first incident of abusive behavior. Instead, this conviction may only be the first time the violence was reported to the police. Domestic violence offenders are

Domestic violence offenders, although convicted of similar crimes, are different from one another and require individually specific interventions.

highly likely to reabuse the same victim, this revictimization will likely occur within the first two or three months of supervision, and there is serious potential for escalation of the violence (Klein et al., 2005).

To ensure that supervision conditions and case plans are adequate for each offender, a risk investigation is a needed first step in the supervision process. Previous research “suggests that supervision is most effective when offender needs are appropriately identified and addressed” (Andrews et al. 1990; Bonta and Ruge, 2004, p. 1). Domestic violence offenders, although convicted of similar crimes, are different from one another and require individually specific interventions. Offender rehabilitation literature identifies the centrality of investigating an offender’s risk level and setting supervision conditions that correspond to such risk. This means that offenders considered high risk will receive a more stringent set of conditions, increased officer interaction, and closer scrutiny of program involvement relative to offenders considered low risk. Successful case management requires identifying the areas in which offenders are most in need of rehabilitative efforts to prevent future criminality and abuse. Bonta and Ruge (2004, p. 3-4) summarize the importance of conducting initial risk assessment to determine the level of supervision needed by stating that officers need to determine “how much supervision is required based on recidivism risk and what areas need to be addressed in order to reduce that risk.”

This essentially is suggesting for community corrections professionals to move away from treating domestic violence offenders as a homogeneous group or as merely misdemeanor offenders. Instead, community corrections officers supervising domestic violence offenders—regardless of offense level or type—should investigate risks to determine case management plans. Individualizing supervision strategies should more effectively and efficiently utilize resources, protect victims, and ensure that offenders are compliant with all conditions.

## IMPLEMENTATION STRATEGIES

- **Recommend appropriate sentences and conditions of supervision.** In some jurisdictions, community corrections professionals have the opportunity to recommend sentences and supervision conditions to courts and paroling authorities. It is especially important to conduct thorough investigations and analyses of each case to formulate appropriate recommendations. Convicted domestic violence offenders should receive sentences that are appropriate to the level of risk they present to their victims. However, because domestic violence offenses often are classified as misdemeanors and offenders tend to plea bargain to receive reduced sentences, the sentences are usually less severe than what would be given to an offender committing a similar crime (e.g., assault, aggravated assault) against a stranger. The conditions ordered as part of pretrial release, probation sentence, or parole should reflect the mutual goals of offender accountability and victim safety. Most jurisdictions and paroling authorities have predetermined general conditions for supervision of all offenders (e.g., obey all laws, maintain employment, do not leave the area without permission, cooperate with supervision and follow directions of the supervising officer). Special supervision conditions are recommended for all domestic violence offenders as local and state statutes allow and as may be required for offender accountability and victim safety based on risk assessment.
- **Monitor and Enforce Supervision Conditions.** Monitoring and enforcing supervision conditions creates

the structure within which community corrections professionals hold offenders accountable and increase victim safety. Community corrections agencies should not recommend and the court or paroling authority should not order conditions that cannot or will not be fully enforced. For example, if the court orders a condition for the offender to remain abstinent from alcohol and drugs, a system should be in place to monitor the offender's consumption of alcohol or drugs and to respond to all instances of noncompliance.

- **Develop special conditions appropriately.** Each jurisdiction and paroling authority also should develop special conditions to be imposed for domestic violence offenders that support the goals of supervision. The domestic violence conditions can be in the form of a list that the judge or paroling authority can check off, unless an exclusion is noted. Some conditions will need to be individualized and can be worded “as directed by the probation/parole officer.” This addition allows the officer some discretion in formulating a supervision plan for the offender (e.g., the officer can direct the offender to attend substance abuse or mental health treatment if those are identified as need areas). Exhibit 8-A contains a list of possible supervision conditions. The ability to impose some of these conditions may be mitigated by local and state statutes and case law. However, agencies might want to select from this list when working with courts and paroling authorities to establish conditions for domestic violence offenders, and individual officers may use the list to recommend conditions based on the findings of investigations in particular cases.

*Exhibit 8-A***OPTIONS FOR SPECIAL CONDITIONS OF SUPERVISION FOR DOMESTIC VIOLENCE OFFENDERS****Protection of the victim**

- Comply with orders of protection.
- Refrain from “offensive contact.”<sup>6</sup>
- Contact is allowed with the victim only with written prior approval of the judge or releasing authority.
- No contact with the victim’s family is allowed.
- No indirect contact with victims through soliciting others to act on your behalf or at your direction, including stalking and harassment.
- No harassing or stalking behavior.
- Do not use or possess firearms. Disclose and surrender all firearms, ammunition, and firearms permits or licenses to law enforcement and provide proof of forfeiture.<sup>7</sup>
- Abstain from using alcohol or other drugs.<sup>8</sup>
- Disclose new intimate partner relationships to the community supervision officer and inform new partners why you are on community supervision.<sup>9</sup>
- Do not manipulate legal system to retaliate against the victim.<sup>10</sup>
- Submit to unannounced home visits.
- Submit to warrantless searches and seizures.
- Abide by geographic prohibitions (such as staying away from the victim’s home, work, or places she spends time) as directed by the community supervision officer.
- Comply with electronic monitoring as ordered.
- Serve time in jail or prison.

**Offender accountability**

- Release information to third parties as appropriate.<sup>11</sup>
- Submit to polygraph examination.<sup>12</sup>
- Provide community corrections officer with all court documents such as protection orders, custody and visitation orders or agreements, and civil court judgments.

<sup>6</sup> It is important that the offender clearly understand what constitutes offensive contact. In Lane County, Oregon the community corrections staff serve a notice on the offender that defines offensive contact and secure the offender’s signature as indication that he has received and understands the notice. A copy of this form is shown in Exhibit 8-B.

<sup>7</sup> This may be expanded to include deadly weapons as relative to the case, or to add other items.

<sup>8</sup> While alcohol or drug use should never be accepted as an excuse for domestic violence, there is a relationship between use and domestic violence; thus, prohibition of use can assist in protecting the victim.

<sup>9</sup> See exhibit 9-E for a sample directive.

<sup>10</sup> Through this condition, an offender can be held accountable for manipulative use of legal means to create further victimization of a partner or former partner, such as inappropriate petitions for child custody or visitation, unfounded reports to a child protective services agency, and filing for a restraining order against the victim.

<sup>11</sup> This condition may require an offender to sign release of information forms or provide certain information to service providers such as substance abuse and mental health treatment providers or batterer intervention programs.

<sup>12</sup> Conducting a polygraph on the offender can remove responsibility from the victim for reporting noncompliance. Officers should check local legal requirements before using a polygraph.

- Make full disclosure of criminal history and status in any child custody investigations, paternity actions, adoption proceedings, and other family or civil matters.
- Cooperate with child/adult protective services and make full disclosure of criminal history and status.
- Notify community corrections officer immediately of all police contacts.
- Comply with child/family support.
- Pay restitution as directed.<sup>13</sup>
- Maintain pre-existing health care insurance for the family.
- Pay attorney fees for the victim in any case related to the present criminal offense.
- Pay fees for group intervention program, substance abuse and/or mental health counseling, or other rehabilitative programs.
- Repay the costs of substance abuse testing.
- Pay fines, fees, and court assessment as directed.
- Comply with curfews.
- Perform community work service.

**Intervention/treatment**

- Mandatory attendance, participation in, and satisfactory completion of a domestic violence intervention program as directed.
- Submit to substance abuse testing.
- Undergo substance abuse assessment and treatment, if directed by the community corrections officer.
- Undergo mental health assessment and treatment, if directed by the community corrections officer.
- Sign a release of information to third party intervention/treatment providers allowing disclosure of information to the community corrections officer.

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<sup>13</sup> Restitution should be ordered as needed to achieve restoration for the harm caused by the offender. This could include physical and mental health care for the victim and children, repairing property damage, adding home security enhancements to the victim's home, reimbursing domestic violence shelters, or other restoration efforts.

**GUIDELINE 14:**

*The process of moving cases through investigation, sentencing and intake is expedited so that supervision begins as soon as possible.*

**RATIONALE**

Expediting court processes and placing offenders under supervision as soon as possible is essential for increasing victim safety and achieving goals of accountability, behavior change, restitution, and deterrence for offenders. This is especially true with domestic violence offenders, as criminal justice researchers identify periods of separation and times awaiting trial as dangerous times for domestic violence victims. Research has analyzed recidivism, and one general proposition is that the bulk of those who do reoffend will do so early in the supervision process (see Bork, 1995; Taxman & Cherkos, 1995). Goldsmith (1991), for example, found that 30 percent of batterers inflict further assaults during the predisposition phase of prosecution. Gray, Fields, and Maxwell evaluated 1,500 probationers over 30 months, and found that about 75 percent had technical violations and 25 percent committed new crimes. They also found that the bulk of offenders committing technical violations were doing so within the first three months of supervision. In a recent study in Rhode Island, more than one-third of the probationers who reabused their partners did so within the first 60 days, before most were even assigned to a probation officer or started the batterer program (Klein, et al., 2005; see also Ames and Dunham, 2002). Domestic violence offenders present a high likelihood of quickly reoffending, necessitating swift prosecution, judicial, and corrections processing. Deterrence theories suggest that offenders are more likely to alter their behavior if punishments are definitively and swiftly applied (see Akers, 1997, chapter 2).

The initial time during the court process may be the most important for protecting victims. Prosecuting domestic violence cases or reaching a plea bargain can take several months, and completing investigations and imposing sentences following adjudication may take additional time. Several jurisdictions have made prosecuting domestic violence cases a central priority, streamlining the prosecution and court processes to dispose of cases quickly. Community corrections officers have little opportunity to expedite this initial disposition phase unless given a role in conducting court or prosecution investigations.

Further delays may occur as cases are transferred from the court or paroling authority and assigned to a community supervision officer. During these periods when paperwork is making its way through the necessary procedures and important decisions about prosecution, sentencing, and case supervision are being made, the offender is usually free in the community, has access to the victim, may reabuse her, and may tell the victim that the justice system is not able to control his behavior. The victim may feel let down by the justice system and more strongly believe that she cannot rely upon it for protection. The victim's disappointment may discourage her from reporting further abuse and cooperating with justice system professionals in the future.

**IMPLEMENTATION STRATEGIES**

Community corrections agencies should quickly investigate and supervise the case immediately following sentencing, pretrial release, or parole release and assignment to community supervision. Some probation agencies have developed strategies to overcome the delays in getting domestic violence cases to active investigation and supervision stages. For example:

- Some agencies assign a designated probation officer to attend court sessions. When a domestic violence case is sentenced, the offender is instructed to meet immediately with the probation officer while still in court.

The officer reviews the conditions of probation; informs the offender of procedures to expect, such as community corrections contact with the victim and unannounced home visits; refers the offender to a batterer program; and sets an appointment for the offender's next meeting with the assigned probation officer.

- Similar procedures can occur outside of the courtroom if the probation office is located in close proximity to the court. Offenders may be instructed to go immediately to the probation office after sentencing. Information similar to that described above is conveyed to the offender.
- In still other locations, offenders are given instructions to report to the probation office within a short period after sentencing—for example, within two to five days. Initial information is reviewed and investigatory procedures may be initiated.

One common problem slowing the movement of cases from court to active supervision is transferring paperwork from the court or paroling authority to the community corrections agency and assigning the supervising officer to the case. The procedures described above and officer assignments can be implemented before completing all the paperwork. Any officer assigned to be in court or to have intake duty can review the conditions and provide the offender with information needed to start a batterer program and advise him of investigation procedures. It is crucial that when an offender leaves the court he understands that his behavior will be monitored. This swift application of supervision should prevent him (and the victim) from feeling that “there was nothing to it.” If he has contact with the victim and conveys to her that he already has been given directions by the community corrections officer, she may be more likely to feel supported by the justice system.

Several essential tasks should be completed with domestic violence offenders during the intake process:

- **Explain supervision conditions.** Review each supervision condition with the offender to confirm that he understands supervision expectations. Have offenders sign a statement indicating that they have read, understood, and received a copy of the supervision conditions. Additional explanations of some conditions may be helpful. For example, no-contact conditions are explained to prohibit telephone, in-person, and written communication with the victim as well as arranging for a third person to contact the victim on the offender's behalf. The Lane County, Oregon, Department of Parole and Probation developed a written explanation of offensive contact. This is reviewed with each offender who is then required to initial and sign the document affirming that he understands what is meant by these terms. A copy is provided in exhibit 8-B.
- **Develop a plan for weapon forfeiture.** Provide offenders written information about firearms possession prohibitions. Tell offenders when and how to relinquish their firearms and ammunition. (See guideline 17.)
- **Inform the offender that the victim will be contacted.** Inform offenders at the first contact that the victim's safety is of primary concern. The offender should be told—and reminded regularly—that the officer will contact the victim as a customary part of the supervision process. In some cases, batterer program providers also may contact the victim. Tell the offender that sanctions may be applied if he interferes with these contacts.
- **Photograph the offender.** Take a photograph at the intake session and attach it to the offender's file. Retain additional copies of the photograph for future use, if necessary, such as furnishing it to police if the offender absconds or fails to appear for future court hearings.
- **Refer offenders for evaluation and intake at batterer programs and other treatment, as needed.** During the intake session, set an appointment for the offender to go to an appropriate batterer program. Provide specific written information about the location, date, and time for an evaluation session or the next meeting of the group and the cost of the program. If investigation reveals that offenders have substance abuse or mental health problems, make referrals at the earliest opportunity.

*Exhibit 8-B***DEFINITION OF OFFENSIVE CONTACT**

Domestic violence is a pattern of behaviors in which one partner attempts to establish or maintain power and control over the other through physical, sexual, and/or psychological abuse. There are many ways you may control a person through threat and intimidation without actually using physical violence, particularly if you have used physical violence against that person in the past. As a result of your violence against your partner, you are directed to refrain from behaviors that constitute domestic violence. These behaviors are called offensive contact.

Offensive contact is defined as engaging in physical, sexual, or psychological abuse of another person.

**Definitions**

***Physical abuse is defined as any forceful or violent action directed at someone else. Some examples of physical abuse are:***

- Slapping, choking or strangling, maiming, stabbing, punching, scratching, wrestling, kicking, spanking, grabbing, pinching, biting, burning, pushing, poking, restraining, pulling hair, picking her up, carrying her, throwing her bodily, forcing her to eat or drink something, stopping her from getting medical attention, stealing or hiding her medication, throwing things at her or near her, using any object or weapon against her, physically making her do something against her will (forcing her to sit down, hang up the phone, get into the car, put something down, stay at home, etc.)

***These are only some examples of physical abuse. There are many other types of physical abuse that are not listed here but they are still offensive contact.***

\_\_\_\_\_ Please initial here if you understand what is meant by physical abuse.

***Sexual abuse is defined as any non-consenting (not freely agreed to) sexual act or behavior. Some examples of sexual abuse are:***

- Forcing or demanding sexual activity when she says no, when she is asleep, when she is drunk or high, when she is afraid of being hurt (or that the children will be hurt or sexually abused) if she says no, when you have not asked first, asking for or demanding sexual activity after you have physically or psychologically abused her (for example, hit her, pushed her, or threatened her).
- Physically attacking the sexual parts of her body (breasts, vaginal area, and buttocks), pulling or ripping her clothes off, demanding or forcing her to engage in sexual behaviors that she does not like, or that embarrass or humiliate her, or that scare or hurt her (such as oral or anal sex, sex in public places, tying her up, putting handcuffs on her, or forcing her to have sex with other people).

***These are only some examples of sexual abuse. There are many more types of sexual abuse that are not listed here but they are still offensive contact.***

\_\_\_\_\_ Please initial here if you understand what is meant by sexual abuse.

**Psychological abuse is defined as behaviors (words or actions) that are used to intimidate, create fear, or threaten another person. Some examples of psychological abuse are:**

- Acting like you are going to physically or sexually abuse her or the children.
- Holding your hand up like you are going to slap, hit or punch, throwing things, making her think that you are going to throw or punch something, hurt the children, use a weapon, or break something, etc.
- Using your physical size to intimidate her (standing over her, backing her against a wall, blocking her from leaving a room or the house), getting in her face, using a commanding, intimidating tone of voice, yelling at her, the children, or pets, etc.
- Using threatening behaviors like: driving recklessly with her and/or the children in the car, throwing things, hurting a pet, punching walls, threatening her with an object or weapon (including cleaning a weapon in front of her), slamming doors, smashing or breaking things, following her around to watch what she is doing, pulling the phone out of the wall, etc.
- Telling her that you are going to physically or sexually abuse her.
- Saying that if she does something you are going to slap, smack, shoot, stab, or hit her, the children or pets, making vague threats (like “You’re going to get it,” or “You better not piss me off,” or “Now you’re in trouble”) or referring to abuse you have subjected her or someone else to in the past (like, “Do you want me to hit you again?” or “You’re acting like you did the last time I hit you,” or “When you do that you remind me of my ex-girlfriend and you know what happened to her.”)
- Making threats to do things to her and/or the kids, such as saying that you will take away the children (or have them taken away), that you will have her arrested, that you will not pay child support, that you will have an affair, hurt a pet, commit suicide, or start drinking or using drugs (especially if you have been violent to her while under the influence).

While psychological abuse may not cause immediate physical damage, it is very powerful because you have hurt her (and/or the children) in the past. All threats and threatening behaviors are abusive because you have shown that you may back up your threats with violence.

These are only some examples of psychological abuse. There are many more types of psychological abuse that are not listed here but **they are still offensive contact.**

\_\_\_\_\_ **Please initial here if you understand what is meant by psychological abuse.**

.....

Definition of offensive contact reviewed on (date) \_\_\_\_\_

Offender \_\_\_\_\_ Parole/Probation Officer \_\_\_\_\_

*(Source: Lane County Parole and Probation Department, Eugene, OR)*

- **Establish payment plans.** Explain all expected payments (e.g., restitution, family support, fees, fines) required of offenders and set payment plans based on each offender's ability to pay. Include collection and disbursement methods in these initial instructions. Instruct offenders that community corrections or court personnel handle all collections and disbursements and offenders are never to make payments directly to their victims.
- **Convey a strong stance against all forms of abuse.** It is important at intake to set the tone for supervision. Be direct and firm about the intolerance for all abuse, and define exactly what that means.

If case volume is high, departments might consider group intake procedures in which all domestic violence offenders would be directed to report at the same time. General information that applies to all offenders could be reviewed with the entire group followed by individual appointments for personal interviews or directives.

### GUIDELINE 15:

*Initial supervision is intensive and occurs within a context of ongoing evaluation of risk; differential supervision and intervention options are implemented based on risk level changes. Supervision strategies should foster victim safety, offender accountability, and offender behavior change.*

### RATIONALE

Supervising domestic violence offenders requires community corrections officers to move beyond traditional supervision strategies. These cases contain potential risk of violence, most often upon the same victim, requiring community corrections officers to be more aware of the dynamic risk factors fostering reabuse (e.g., drug abuse, unemployment). In light of the increased likelihood for reabuse and the growing size of community corrections caseloads, supervision must be efficient and effective. Previous research has found recidivism-reducing potential at several points within the criminal justice process (e.g., courts, prosecution, probation) with these contributions having a cumulative effect (Murphy, Musser, & Maton, 1998).

Shepard, Falk, and Elliot (2002) found recidivism reductions among a multiagency effort to combat domestic violence. The authors mention the necessity of investigating risks to determine the initial level of supervision as well as ongoing evaluations of offender risk while supervised in the community. These assessments accurately predicted recidivism and contributed to “active monitoring of offender compliance with probation conditions, court-mandated participation in batterer intervention programs...and monitoring of the system-wide response to domestic violence cases” (Shepard et al. 2002: 552).

By engaging in a process of routinely identifying risk factors, community corrections professionals can develop case management strategies specifically designed to prevent violence. This suggests that “risk assessment can serve as a cornerstone for offender management and safety planning with victims” (Kropp, 2004 p. 685). Through ongoing risk investigation, community corrections officers can take a more proactive approach to supervising domestic violence offenders. This approach ensures that offenders have a clear understanding of what behaviors are expected of them and which ones will not be tolerated (Taxman, Soule, & Gelb, 1999). Being more proactive with domestic violence offenders allows for community corrections professionals to respond to offender behaviors

in a consistent, fair, and certain manner. Community corrections professionals can begin domestic violence offenders with a more intense (e.g., frequent interaction, close scrutiny of performance) case management strategy.

The supervision strategy can be altered depending upon an offender's willingness to comply with conditions, especially avoiding any potential for reabuse of the victim (necessitating officer contact with the victim). Offenders, therefore, have the ability to demonstrate their willingness for change and to receive positive reaction from community corrections officers (e.g., reduced officer interaction, verbally acknowledging the offender's improvement), or negative sanctions in the form of increased supervision or revocation processes. Community corrections professionals can better protect the community and victims, and work toward offender behavior change by instituting a more proactive approach with domestic violence offenders. This process relies on continual appraisal of offender compliance, recidivism risk, and criminogenic (i.e., crime related) needs.

## IMPLEMENTATION STRATEGIES

The appraised risk of many domestic violence offenders will qualify them initially for placement in the most intensive level of supervision even if a low risk score is calculated from general risk assessment instruments. The intense supervision period provides officers with several advantages: (1) an opportunity to observe the offender over time; (2) a chance to establish contact and obtain information from the victim; (3) time to monitor the offender's entry, attendance, and compliance with batterer intervention programs; and (4) an opportunity to verify the offender's statements and self reports with the victim and appropriate collateral sources.

There are nearly as many variants of intensive supervision as there are agencies utilizing this supervision strategy. Community corrections agencies will need to define contact expectations and other strategies for domestic violence offender supervision. There is no doubt that these decisions will be influenced by the availability of staffing and funding, and where possible, existing and new resources should be allocated for these dangerous cases.

In St. Louis County, Missouri, domestic violence offenders are assigned to specialized supervision caseloads. The supervision guidelines are detailed in a contract that offenders sign during the initial phase of supervision. In this county, domestic violence offender supervision is divided into phases with specific requirements for offenders (e.g., tasks, contacts) before progressing to subsequent phases. However, offenders may remain in a phase or return to a former phase when failing to meet the requirements. Exhibit 8-C displays the contract listing the phases, tasks, and contact requirements.

## Exhibit 8-C

**ST. LOUIS COUNTY MISSOURI DOMESTIC VIOLENCE PROGRAM CONTRACT**

In accordance with the authority granted to the BOARD OF PROBATION AND PAROLE AND THE CIRCUIT COURTS by the laws of the State of Missouri, you have been ordered to participate in the Domestic Violence Program and are subject to the following:

*I shall move through the phases of the program based on my progress and compliance with my treatment plan. I understand that the phases listed below are just guidelines and my progression through the program will be determined by my participation and progress.*

**Phase I — Average 90 days**

- I will have a minimum of one face-to-face contact per week with my officer
- I will be available for a home visit once a month unless full-time employment prohibits probation staff from completing visit during normal work hours.
- I will obtain verifiable employment within the first thirty days.
- I will immediately become involved in a violence intervention program, attending a minimum of one session per week unless chemical dependency treatment becomes identified as being necessary which would become priority.
- I will obtain drug/alcohol evaluation and immediately initiate any treatment plan if appropriate.
- I will submit to urine drug screens whenever requested and I will have developed a treatment plan prior to being considered for Phase II.
- I will successfully complete these steps in order to be considered for Phase II.

**Phase II — Average 90 days**

- I will have a minimum of two face-to-face contacts per month with my officer.
- I will continue to address all identified treatment areas from Phase I.
- I will successfully complete these steps in order to be considered for Phase III.

**Phase III — Average 180 days**

- I will have minimum of one face-to-face contact per month with my officer.
- I will continue to address all identified treatment areas from previous Phases.

**One Year of Supervision**

- At this time, if the program has not been successfully completed then probation will be extended to allow sufficient time for successful completion. If all program guidelines have been completed then a successful release from probation will be initiated.

I understand the Court will review my progress and violations on a regular basis. Any serious violations will be immediately referred to the Court for disposition and may result in revocation of my probation.

**I have reviewed and understand the requirements for my participation in this program.**

Signed \_\_\_\_\_ Date \_\_\_\_\_ Witness \_\_\_\_\_ Date \_\_\_\_\_

(Used with permission of Missouri Dept. of Corrections, Board of Probation and Parole, St. Louis County, MO.)

The following are suggested as supervision conditions that should not rest on the victim's input. Independent means of verifying compliance and noncompliance should be developed.

- **Collateral contacts** to verify the offender's attendance at any mandated programs (such as batterer intervention and substance abuse programs) or to obtain additional investigation information. Arrangements should be made for regular (preferably weekly) contact with the batterer intervention program and for immediate notification sent to the officer if the offender fails to attend a session, fails to participate actively, or violates other program rules (e.g., attends sessions while intoxicated). Officers must be proactive in establishing additional collateral contacts to verify the accuracy of offender reports and to secure other information about the offender's behavior. Suggested routine collateral contacts include the offender's employer, neighbors, family members, law enforcement, social welfare agencies, and victim's advocate, but the officer should solicit contact from anyone who can provide relevant information about the offender.
- **Drug testing** or other methods to verify abstinence from alcohol and other drugs.
- **Ongoing investigations for possession of weapons** including possible searches, reviews of gun licenses, and contacts with collateral sources. Strict officer safety procedures should be followed with regard to weapons.
- **Reduced caseloads** will allow time for additional victim and collateral contacts. Agencies facing staffing limitations may consider instituting group supervision as one way to manage large caseloads. See the description of a group supervision program in exhibit 8-D.

## DIFFERENTIAL SUPERVISION

Analyzing domestic violence offender risk level is not a simple matter. Unlike appraisals made at the pretrial or presentence stages, the supervising officer has the advantage of time and numerous contacts to support decision making when using risk appraisal information to inform the supervision plan, including changes in classification levels. However, the supervising officer must contact the victim before making changes in the offender's supervision level, and should only take action that will promote victim safety. If the victim expresses any concerns about her safety, a lower differential classification level should be delayed until her concerns can be fully investigated and her fears can be addressed.

Conversely, the offender's compliant behavior and evidence of changes in cognition should be acknowledged, possibly with a reduction in supervision intensity. However, the offender's success should be carefully evaluated and substantiated, as they may easily walk through the motions and create positive appearances that are false and masterfully manipulated. Effectively using rewards and sanctions is an important tenet of offender supervision to encourage behavior change. However, if the reward results in increased freedom for the offender, the officer should retain the ability to immediately reinstate a higher level of supervision if new circumstances warrant it. The officer must diligently continue appraisal of the offender's risk potential or any other significant change in circumstances.

## SPECIALIZED OR GENERAL CASELOADS

The concept of specialized supervision in community corrections is not an uncontested issue. Those who favor specialized caseloads argue that officers working only with domestic violence offenders gain expertise regarding the types of problems they present and the kinds of supervision and intervention services they need. Caseload sizes usually are reduced in these specialized units, and, therefore, officers have more time to provide intensive and individualized services to offenders. On the other hand, there is a higher cost for supervision with the specialized caseloads, and officer recruitment and training may be difficult. Officers also may experience increased stress and

*Exhibit 8-D***ANN ARBOR PROBATION PIONEERS GROUP PROBATION FOR ABUSERS****Limited Resources Lead to a Creative Solution***By Andrew Klein*

Too many cases, too few probation officers? Many jurisdictions provide little if any resources for the supervision of offenders convicted of misdemeanors, who are considered less serious offenders. Most domestic assaults are prosecuted as misdemeanors across the nation. As a result, probation officers must strain to cover burgeoning caseloads of domestic violence perpetrators, even though these probationers, unlike most misdemeanants, have a much higher likelihood for committing repeat acts of violence.

The Ann Arbor, Mich. Probation department, under the leadership of Officer James Henderson Jr., who heads the court's specialized domestic violence probation unit, has come up with at least one powerful solution: group probation. Every second and fourth Thursday of the month, Henderson requires domestic violence probationers to attend group meetings, beginning either at 5 pm, 6:15 pm or 7:30 pm. The average group size is about 17 members. After three months, probationers may be excused from the Thursday meetings if they are compliant with all probation conditions, including participation in the 60-week batterer intervention program run outside the probation department.

The groups review normal topics of concern for probationers, including employment, court payments and so forth. They include, additionally, processing of information and values related to domestic violence. Before each group, the probation officer receives up-to-date information on how each probationer is doing in the batterer group and required substance abuse counseling. A primary focus of each group is a review of compliance with these programs as well as reporting, payments, AA attendance and so on. Officers reinforce the negative consequences for non-compliance or new abuse.

Group also allows probationers to complain about probation, the courts, the programs and more, or bring up personal problems. The purpose is for members to get support from their peers who have successfully navigated the court system, probation, program requirements, or similar personal problems.

According to Henderson, the group is like individual probationer meetings but with the added strength of multiple members. Probationers also hook up with each other for rides to required programs, AA meetings, probation visits, and even help each other find employment. As Henderson concludes: "Sometimes group is powerful and sometimes we get the job done. Either way, I save time and the defendants get more than they would in a five- or even 20-minute traditional probation interview.

Females convicted of domestic violence also attend probation groups separate from male abusers. Probation also tries to keep men in the same batterer groups together. There are multiple batterer programs that serve the Ann Arbor court.

In addition to group meetings, probationers are required to contact their probation officer weekly. They must also participate in weekly urine tests. Sometimes tests are performed at the group meetings. Home visits are made periodically and randomly. Officers also drop in at batterer program meetings from time to time. Finally, officers contact victims once a month.

Officer Henderson has a MSW and has done group work for years for both substance abuse and batterer treatment groups. But he does not believe that a degree is necessary, because he says that he is not doing therapy in group. While groups are in session, there is always at least one other probation officer working in the office nearby. There has not been, however, an incident in the four years of group meetings. Henderson started to experiment with group probation when he found himself saying the same thing over and over again to each abuser on his caseload. It was not only a waste of time, but it took him away from other activities, including monthly victim contact which he felt to be imperative as well as monitoring how probationers were doing in programs.

Although there are day group meetings, Henderson says night meetings are more successful because offenders are stressed about getting back to work. Although probation is onerous for abusers in the Ann Arbor Domestic Violence Court, the groups have contributed a high successful-completion rate according to Henderson. Henderson is now joined by other probation officers who have instituted group meetings. Hard numbers documenting the effects of Henderson's innovation should be forthcoming because the Ann Arbor Domestic Violence Court is being studied by the Office of Violence Against Women is one of three national demonstration courts funded by the Office.

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burnout when dealing only with difficult cases comprising specialized caseloads. In Bucks County, Pennsylvania, the domestic violence probation supervision unit was constructed so that no more than one-half to two-thirds of officers' workloads consisted of domestic violence offenders with the remainder being other types of offenders. This concentration of domestic violence offenders allows the officers sufficient opportunity to apply their special training and skills and affords them the opportunity to do more traditional, less intensive probation work with other offenders.

While specialized caseloads are feasible in urban areas where there are higher numbers of offenders, they often are not possible in rural areas. There may not be a sufficient number of domestic violence offenders to comprise a specialized caseload. Rural areas also present problems related to travel distances, and it may be more practical to assign cases to officers based on where offenders reside rather than on offense classifications.

All officers, whether supervising general or specialized caseloads, should be trained in domestic violence issues and should be capable of screening for domestic violence victimization and offending. Those offenders not convicted of domestic violence, but identified as having domestic violence issues (e.g., protection orders, prior domestic violence arrests) should receive domestic violence intervention services and should be considered for transfer to a domestic violence unit if available. Victims identified on supervision caseloads should be referred to appropriate advocacy services (see guideline 31, chapter 9). Officers and supervisors in specialized domestic violence units should receive mandatory specialized training.

### **GUIDELINE 16:**

***Offenders are required to maintain abstinence from alcohol and other drugs.***

### **RATIONALE**

There is a strong relationship between substance abuse and domestic violence. Greenfeld et al. (1998, p. 26-28) point out that:

- More than half of prison and jail inmates convicted for violence against an intimate were drinking and/or using drugs at the time of the incident.
- Of jail inmates convicted for intimate violence, the median consumption was 10 beers, and 20% drank the equivalent of two dozen or more beers before their crime.
- Nearly half of state prison and a third of jail inmates who were drinking before their violent act had been drinking for six hours or longer.

Comparisons between nonviolent and violent male offender drinking patterns reveal that domestic abusers were younger at arrest, began drinking at an earlier age, had stronger beliefs that alcohol causes their violence, and had more arrests than their nonalcoholic counterparts (Murphy and O'Farrell, 1994). Bennett et al. (1994) found that stimulants, especially cocaine, are strongly associated with intimate partner abuse. None of these researchers suggest that alcohol or drugs cause the violence. The violence is the result of the offender's tolerant attitude toward violence whether sober or intoxicated. Although Kantor and Straus (1989) found an offender's use of alcohol and other drugs associated with intimate partner violence, they qualify these results by pointing out that 75% of all violent incidents took place without the presence of alcohol and/or drugs.

In a recent study by the National Institute of Justice, Sharps et al. (2003) compared three groups of victims and offenders across ten U.S. cities. These groups were: (1) homicide (for which close relatives or friends provided information) or attempted homicide victims; (2) nonfatal abuse victims; and (3) nonabused women. Severe drinking was found significantly more often among the homicide/attempted homicide offenders (49%) and abusers (31%) than the nonabusers (6.2%). This study demonstrates that homicide and attempted homicide offenders and nonfatal abusers drink at a much higher rate than nonabusing males. Sharps et al. (2003) also found that about 44% of homicide or attempted homicide offenders and 30% of abusers were using drugs or alcohol at the time of the incident or most recent incident. The authors make several important points in this discussion (Sharps et al., 2003):

- Men's drinking or drug use is related to their levels of violence against an intimate.
- This relationship is not causal; the offender is responsible.
- In violent relationships the level of danger increases if the abuser drinks or uses drugs heavily. This danger often results in a female homicide

Bennett (1997, p. 2) identifies several ways substance use might interact with intimate partner violence:

- *Disinhibitor*: the chemical properties of the substances act upon the brain to break down personal restraints, but this has yet to be scientifically proven;
- *Excuse*: violence is not the abuser's fault, but blamed on the substance(s);
- *Power*: alcohol is said to increase aggressive and controlling behavior especially in men (Graham, 1980; Gondolf, 1995);
- *Situational*: victims may use substances to try to manage the abuser's violent outbursts and increase her safety (see Holtzworth-Monroe, Smutzler, and Bates, 1997).

## IMPLEMENTATION STRATEGIES

Community corrections professionals must be cognizant of substance abuse as a risk factor among offenders when conducting investigations and supervising offenders. The following strategies are recommended:

- **Screen for substance abuse** by: (1) asking offenders and victims about the offender's patterns of drinking, drug use, and violence; (2) reviewing arrest records and police reports for instances of intoxication; (3) looking for previous periods of treatment for substance abuse; and (4) administering brief substance abuse screening instruments if available in the agency.
- **Report findings** related to substance abuse to the court or paroling authority; request conditions for drug and alcohol assessments, treatment, and testing; and refer offenders for needed services.
- **Prohibit the use of alcohol or drugs.**
- **Abstinent domestic violence offenders can simultaneously participate in a batterer program and in substance abuse treatment.** However, offenders with severe ongoing substance abuse issues may need to consider inpatient or intensive substance abuse therapy before participating in a batterer program.
- **Understand both substance abuse and batterer intervention providers' philosophies** of their programs if an offender is participating in both substance abuse treatment and a batterer intervention program. Make sure the programs do not give conflicting messages to the offender. If possible, community corrections professionals, substance abuse treatment providers, and batterer intervention program facilitators should discuss their respective case plans for an offender and resolve any conflicting approaches, particularly those that may compromise offender accountability.

- **Require offenders to undergo periodic testing** for substances of abuse. Testing should be random and sufficiently frequent to confirm abstinence and help offenders stop using substances.
- **Enforce financial obligations**, which could lessen the amount of available money for drugs or alcohol.
- **Enforce community service and intervention programs** that keep the offender involved in prosocial activities, reducing the amount of time to spend using drugs or alcohol.

### GUIDELINE 17:

*Offenders are required to relinquish firearms or other known weapons.*

### RATIONALE

In 2000, intimate partners victimized 556,500 women, representing 21 percent of all females violently victimized that year. In contrast, intimate partners victimized three percent (98,850) of male victims of violent crime (Rennison, 2001a). During the same year, intimate partners killed 1,247 women (33.5% of all murder victims) and 440 men (3.7% of all murder victims) (Rennison, 2003). Intimate partners used guns to kill 226 male homicide victims (51%) and 735 female homicide victims (60%) (Bureau of Justice Statistics, 2002).

Domestic violence and weapons are all too often a deadly combination. Firearms, knives, blunt objects, hands and feet, and other weapons may be used in domestic violence incidents (Paulozzi, Saltzman, Thompson, & Holmgreen, 2001). Even though firearms are used relatively infrequently, when they are used, the assaults often turn into domestic homicides (Violence Policy Center, 2001).

A study conducted in Atlanta, Georgia (Saltzman, Mercy, O'Carroll, Rosenberg, & Rhodes, 1992), compared the risk of death and nonfatal injuries during intimate partner assaults with firearms to the risk of death and injuries when other types of weapons were used in such assaults. The study found that intimate assaults committed with firearms were 12 times more likely to result in death than intimate assaults in which firearms were not used. The intersection of prior domestic violence and the availability of a gun in the home were also shown to increase significantly the risk of women being murdered by an intimate partner. Prior domestic violence in the intimate relationship increased the risk of homicide by almost 15 times, and having one or more guns in the home made it more than seven times more likely that the victim would be murdered by a spouse, intimate acquaintance, or close relative (Bailey, et al., 1997).

The presence of firearms in the hands of domestic violence perpetrators not only places their intimate partners at risk, it also endangers other household members and community residents. Bailey et al. (1997) found that for the domestic violence murders examined, one-fourth of them also ended with the perpetrators committing suicide, and guns were the most common weapons in these murder-suicides. During the first half of 2001, almost three-fourths of all incidents of murder-suicide involved intimate partners. Intimate partners killed females in nearly 94 percent of these murder-suicides, and in nearly 95 percent of the cases, victims were killed with firearms (Violence Policy Center, 2002b). A Florida study of intimate partner homicides found that in 38 percent of those murders, the perpetrator killed more than one person including children, interveners, and bystanders (Florida Mortality Review Report, 1997, as cited by Mitchell & Carbon, 2002).

A study conducted in Maine in 2003-2004 found that in 18 percent of cases in which a final protection from abuse order was issued, the defendant had threatened to use a firearm against the victim. Using a firearm to threaten an intimate partner is a form of abuse employed frequently by domestic violence perpetrators (Rubin, 2005).

## IMPLEMENTATION STRATEGIES

Federal law prohibits all individuals with a felony conviction, any domestic violence conviction (i.e., felony or misdemeanor), and those with an active protection order from possessing firearms or ammunition. Although state laws vary greatly, several states have enacted legislation prohibiting all domestic violence offenders from possessing firearms. Community corrections professionals should undertake the following procedures to disarm domestic violence offenders:

- Be fully informed about firearms laws. These laws should be the foundation for all forfeiture and seizure policies and practices with domestic violence offenders.
- Investigate offenders' firearms access during pretrial services, investigations, and ongoing supervision of the offender. Investigation practices should include the following steps:
  - Ask the offender if he has access to any firearms (those he owns or others allow him to use) and if he has expertise in the use of firearms, such as military experience, hunting, or as a collector.
  - Ask the victim and other collateral sources about the offender's access to firearms (e.g., other family members, neighbors), and inform these individuals of firearms restrictions and that supplying the domestic violence offender with firearms or ammunition is illegal.
  - Check arrest and conviction information regarding the present criminal incident to learn whether threats or assaults were made with firearms or other weapons, and if so, what type of weapons.
  - Check official records of protective orders to determine whether an active protective order has been issued against the offender. Determine whether the person requesting the protective order alleged that any firearms or other weapons were involved in threats or assaults.
  - Check criminal history records for previous felony or domestic violence misdemeanor convictions against the offender. Determine whether any firearms or other weapons were used during previous crimes.
  - Check state permit registries to determine if the offender has legally purchased firearms in the state.
  - Check protective order records periodically to determine whether protective orders have been issued against any offenders on probation or parole, even if the conviction that led to their supervision is not related to domestic violence.

Exhibit 8-E provides a program summary illustrating the use of various data sources to investigate domestic violence offenders' possession of firearms.

*Exhibit 8-E***PROGRAM EXAMPLE****California's Program for Seizing Firearms**

In California agents use court records and Department of Justice databases to identify offenders who possess a firearm illegally after a felony conviction, domestic violence restraining order, or mental health report that they are a danger to themselves or others. The Department of Justice is creating a database to automatically cross-reference the names of individuals who own guns with court convictions, domestic violence restraining orders, and records of individuals who are a danger to themselves or others.

After they identify dangerous individuals in possession of firearms, agents obtain search and arrest warrants, notify local law enforcement, and invite local agencies and agents from the federal Bureau of Alcohol, Tobacco and Firearms to participate. Since the program was implemented, hundreds of offenders have been identified as possessing firearms, and hundreds of firearms have been seized. More than 40 percent of the individuals in illegal possession of firearms were prohibited from possessing them because of a domestic violence conviction or restraining order.

The program is heralded for its ability to disarm individuals who possess firearms illegally and for its potential to increase law enforcement officers' safety when they make traffic stops or are called upon to intervene in domestic violence disturbances.

*(Adapted from Press Release. Attorney General Lockyer Unveils New Program Seizing Firearms from Convicted Spousal Abusers, Felons and Individuals Deemed a Danger to Themselves or Others. September 30, 2002.)*

- Provide offenders with Notice of Weapons Prohibitions. Both oral and written notice should be provided to domestic violence offenders clearly stating that they may not possess firearms. Usually, this notice will apply only to firearms and ammunition, but if an offender has used another type of weapon in previous assaults (e.g., explosives, knives), local jurisdictions may also allow for the prohibition of these weapons. The notice should be provided at every point the offender comes in contact with the justice system (e.g., pretrial, sentencing, probation intake, parole release) and should be provided by all those having authority over the offender including judges, paroling authorities, and supervising pretrial, probation, and parole personnel. If offenders are prohibited from possessing firearms because of a protective order, they may be able to regain possession of those firearms if or when the protective order is no longer in effect. When an offender is allowed to regain the right to possess a firearm, all affected individuals should be notified.

Exhibit 8-F provides an example of a notice of firearms restrictions based on both Federal and State laws from the Wisconsin Department of Corrections, Division of Community Corrections.

**Exhibit 8-F**

**Department of Corrections**  
 Division of Community Corrections  
 DOC-1925 (5/98)

Wisconsin

**NOTICE OF FIREARM RESTRICTIONS**

| OFFENDER NAME | DOC NUMBER | AGENT NUMBER |
|---------------|------------|--------------|
|---------------|------------|--------------|

**The Federal Gun Control Act (GCA) makes it unlawful to receive, possess, or transport firearms for any person who meets any of the following criteria:**

- 1) Is under indictment for or has been convicted in any court of a crime punishable by a term exceeding one year
- 2) Is a fugitive from justice
- 3) Is an unlawful user of or addicted to any controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802)
  - The term “addict” means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted in the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.
  - The term “controlled substance” means a drug or other substance, or immediate precursor, included in Schedule I, II, III, IV, or V of Part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in Subtitle E of the Internal Revenue Code of 1986.
- 4) Has been adjudicated as a mental defective or has been committed to a mental institution
- 5) Is an alien illegally or unlawfully in the United States
- 6) Has been discharged from the Armed Forces under dishonorable conditions
- 7) Having been a citizen of the United States, has renounced his citizenship

Furthermore, the GCA, as amended by the (Omnibus Consolidated Appropriations Act of 1997,” makes it unlawful for any person convicted of a “misdemeanor crime of domestic violence” to ship, transport, possess, or receive firearms or ammunition. It also makes it unlawful for any person to sell or otherwise dispose of a firearm or ammunition to any person, knowing or having reasonable cause to believe that the recipient has been convicted of such a misdemeanor.

As defined in the GCA, a “Misdemeanor Crime of Domestic Violence” means an offense that. . .

- 1) Is a misdemeanor under federal or state law; and
- 2) Has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim; by a person with whom the victim shares a child in common; by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian; or by a persons similarly situation to a spouse, parent, or guardian of the victim

Additional, 1995 Wisconsin Act 71 prohibits possession of firearms by persons under domestic abuse or child abuse injunctions and restraining orders. Prohibition is **automatic** for domestic abuse and child abuse orders. Prohibition for harassment orders **may** be ordered by a judge or family court commissioner.

The above information was reviewed and explained to me, and I have received a copy. I understand that, if subject to these laws, I must immediately relinquish all firearms and ammunition in my possession to a third party such as my attorney, local police agency, or a firearms’ dealer. I understand that if I do not comply with the law, I am subject to criminal penalties and/or revocation of my probation/parole. I further understand that, if I am subject to any of these laws, my agent cannot grant me permission to possess a firearm and that any permission granted is thereby null and void.

|                                  |               |
|----------------------------------|---------------|
| _____<br>Offender Signature      | _____<br>Date |
| _____<br>Agent/Witness Signature | _____<br>Date |

**DISTRIBUTION:** Original – Offender File: Copy – Offender

- Work with local, State, and Federal law enforcement entities to develop protocols for the safe removal, storage, and disposition of offenders' firearms. Officer safety is a central concern for any firearms policy and practice. Unless they are specifically trained and possess the appropriate equipment, community corrections officers should rely on or partner with law enforcement to conduct searches and seizures. If offenders acknowledge possession of firearms or investigation reveals that a domestic violence offender has access to firearms, community corrections personnel should immediately require the offender to relinquish them as well as ammunition, other identified weapons, and firearms permits. Offenders may relinquish firearms to law enforcement agencies. If procedures are not already established for this process in the jurisdiction, community corrections agencies may need to take the lead in developing a plan with local, state, or federal law enforcement agencies. Another option is for firearms to be relinquished directly to community corrections personnel. If this policy option is adopted by community corrections agencies, procedures must be in place for the appropriate storage and disposal of firearms and ammunition. Offenders may also be given the option of disposing of the firearms themselves. If offenders are to dispose of firearms, they should be required to state specifically to whom and when the firearms will be transferred. Following the planned relinquishment, community corrections professionals should verify that the surrender occurred and provide the recipient, especially if it is a friend or family member of the offender, with information regarding his or her legal responsibility not to allow the offender access to the firearms.
- If later information discloses firearm possession, or if the offender does not cooperate with an initial plan to remove the firearms, further confiscation procedures are needed. Additionally, it is important to monitor domestic violence offenders for firearms they may acquire during the supervision period. These situations may require searches of their residences, vehicles, and other places they may keep personal property to ensure compliance with prohibition requirements. Searches may be performed routinely or based on suspicion. Courts have consistently upheld the practice of warrantless searches of probationers' residences because probationers do not enjoy the same degree of constitutional protection against searches or seizures as other citizens do. (For a detailed discussion of search and seizure, see Adelman, 2002; Hemmens, 1998a & b; Hemmens, Bennett & Del Carmen, 1999.) Safe procedures for searches and seizures should be spelled out in agency policy and followed carefully. It is advisable to have arrangements with local law enforcement agencies for assistance in such situations. Agencies should have policies in place for searches that are consistent with State laws. It is advisable to have department legal counsel and law enforcement agencies involved in formulating policies and in carrying out searches. A search done illegally may mean that the product of the search is not usable in court, including the possibility of new charges being dismissed.

**James Diaz**, a convicted felon, beat his girlfriend and pointed a gun at her one night in Dallas, Texas. However, before the assault could be prosecuted in a State court, his girlfriend recanted. Instead of dropping the case, the U.S. Attorney's Office in Austin prosecuted Diaz for a Federal crime of being a felon in possession of a firearm, for which he was sentenced to five years in Federal prison (Hafetz, 2003).

- Ensure that appropriate information is entered in databases. Effective supervision of domestic violence offenders depends, in part, on having all needed information about the offender. It is particularly important in supervising domestic violence offenders that protective order databases and criminal history information be current and complete. Community corrections professionals should participate in community coordination efforts to ensure that this information is accurate and available to assist in supervision of these offenders. Where possible, efforts should be aimed toward interactive information systems so that this information can be accessed by and shared with appropriate justice system members.
- Respond swiftly and appropriately to any firearm possession prohibition infraction. Agency policy should stipulate procedures to be followed if domestic violence offenders are found in possession of firearms after being notified that they are not allowed to possess them. Even if firearms prohibitions are not a specific condition of their community supervision, all offenders must obey state and federal laws. Working relationships should be developed between community corrections agencies and Federal law enforcement agencies and prosecutors so that offenders who violate Federal gun prohibitions can be charged and prosecuted appropriately.

See exhibit 8-G for a description of a program that is undertaking this challenge.

### GUIDELINE 18:

***Community corrections professionals are aware of stalking behaviors and the threat they represent to victims and employ supervision strategies that prohibit stalking by the offender and promote victim safety.***

### RATIONALE

Stalking is one of the many behaviors used by intimate partner domestic violence offenders to exert power and control over their victims. Stalking behaviors may evoke high levels of fear for victims and can lead to violence. The Stalking Resource Center (n.d.) funded by the Office on Violence Against Women uses the following definition of stalking. Stalking is:

*...a course of conduct directed at a specific person that would cause a reasonable person fear.*

While stalking laws vary by jurisdiction, it is a crime under the laws of all 50 States, the District of Columbia, and the Federal Government (Stalking Resource Center, n.d.).

The persistence of stalkers and the distress they cause victims should not be underestimated; neither should the stalkers' potential danger to victims. Stalking should be considered very serious behavior and dealt with as such.

The following list provides several general types of stalking behavior. This list serves as an illustration of the variety of criminal and noncriminal behaviors that may constitute stalking.

- Obtaining personal information about the victim without the victim's knowledge
- Invading the victim's privacy
- Having unwanted and/or offensive contact with the victim
- Harassing the victim
- Threatening and intimidating the victim
- Endangering the victim (physically, emotionally, financially)

*Exhibit 8-G***OMAHA DOMESTIC VIOLENCE PROBATION TEAM SEIZES ABUSERS' FIREARMS****Aggressive program is making victims safer***by Andrew Klein*

For more than a year, specially assigned domestic violence Nebraska probation officers in the Douglas County (Omaha), Neb., office have gone into the community to search out and seize prohibited firearms from probationers. Based on a tip from an abused wife, their biggest haul so far included automatic weapons, handguns, ammunitions and a few hand grenades secured by a convicted domestic violence offender in a storage locker.

The domestic violence unit consists of eight officers, supervised by Deputy Chief Ron Broich. The Unit was organized in 1997, the same time police adopted a mandatory arrest policy and the county prosecutor took over the prosecution of misdemeanor domestic violence cases from the City Attorney and instituted a no-drop prosecution policy. The citywide response to domestic violence was also spurred on by the creation of a domestic violence coordinating committee the year before.

Begun with just two probation officers, the Unit grew as the number of cases exploded. The present caseload consists of 500 offenders, mostly misdemeanants convicted of assault or violation of protective orders, punishable up to one year in jail. Standard conditions include participation in a 24-week batterer program and a ban on firearm possession.

To enforce the latter condition, the Unit has adopted one of the most aggressive probation programs in the nation to search out and seize banned firearms. The domestic violence intake officers begin the process by checking with the county firearms registry to check for any legal weapons probationers may have listed. The Unit's probation officer-victim specialist also asks the abusers' partners if they know of other firearms possessed by offenders, promising the victims confidentiality and promising to coordinate with them subsequent searches when necessary so as not to endanger victims.

The information is turned over to the Unit's three field officers, one female and two male officers. The supervising officers advise their probationers that if they do not turn in their weapons to local police, they are not only in violation of their probation but are liable for federal prosecution. Thanks to a meeting sponsored by the United States Attorney in Omaha, local police have agreed to go out and retrieve as well as take care of weapons seized by the probation officers.

The three field officers currently conduct up to a dozen firearm raids a month. So far, all have gone smoothly, although officers have been trained in self defense, carry pepper spray and wear protective armor just in case.

Like all members of the Unit, the field officers have volunteered for the assignment.

Tracy Grinstead-Everly, of the Douglas Domestic Violence Coordinating Committee, has nothing but enthusiastic praise for the efforts of the probation unit, calling members "phenomenal" to work with on the Committee. She adds officers are "dedicated, willing to put themselves in danger" to safeguard victims. For the first time, this year the probation department received a share of the state Violence Against Women grant to pay part of the salary of its victim specialist probation officer.

Nebraska does not have specific state laws barring firearm possession for domestic violence probationers.

The work of the Omaha probation officers stands in contrast to that of their peers across the country. A small American Probation and Parole Association poll of departments around the country found most officers do not have specific programs to enforce firearm bans for domestic violence probationers (See DVP 7/2002). Asked what their response would be if they learned probationers have prohibited firearms, a few reported that they would stop visiting the probationers.

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Women stalked by former or current intimate partners are at risk of physical and sexual assault. In four of five cases of intimate partner stalking, women are physically assaulted, and almost one-third of the victims are sexually assaulted. Violence or threats of violence may be directed toward the women's associates including family members, new partners, or friends; it may also be directed toward pets. Stalking may include kidnapping or confining the victim or others.

## IMPLEMENTATION STRATEGIES

Community corrections professionals should be aware of stalking behaviors and the risks victims face. Supervision strategies should include methods to identify stalking perpetrators and promote the safety of victims. Possible strategies include:

- Request, monitor, and enforce conditions of supervision that address stalking behavior. Possible conditions include:
  - No contact or attempted contact with the victim or her family in-person, through mail, through electronic and telephonic means, through third parties, or other means;
  - Search conditions that include searches of computers if there are indicators the offender is using electronic means to obtain information about the victim or harass her; work with law enforcement to establish protocols for searching computers.
  - Limitations on where the offender may go that may bring him near or in contact with the victim (e.g., stay out of a county, neighborhood, etc.; do not go to her workplace); and
  - Mental health evaluation.
- Conduct ongoing investigations related to stalking behaviors. Ask if the offender has access to email at home or work; determine offender's level of knowledge about electronics and telephone transmissions; ask if victims use email or cell phones.
- Provide highest level of supervision if offender is engaging in stalking behavior.
- Enforce no-contact orders rigorously.
- Make unscheduled community and home contacts (following agency officer safety policies) with the offender (especially early morning and late evening) to determine whether he is residing at the approved residence and if the victim is present.
- Search offender's residence to look for the victim's property, photographs of her, or any indications of a fixation on the victim.
- Develop policies about agency staff responding to victims by e-mail and phone that will keep her safe.
- Refer victims to a domestic violence advocate and recommend they develop safety plans.
- Provide victims with information about stalking, including technology-aided stalking.
- Keep victims informed about the status of the offender, particularly if he enters or is discharged from custody.
- Encourage victims to share information pertinent to their safety (e.g., unwanted contact by the offender). However, advise victims that if they are in immediate danger they should call 911.
- Safeguard information about victims in agency files and computer systems; maintain confidentiality of victims' locations.
- Talk with victims about obtaining a protective order against the stalker. This will not prevent stalking, but may make it easier to arrest and convict the offender if he violates a protective order.
- Encourage victims to maintain documentation of the stalker's behavior (record messages, keep letters and e-mails, keep a log), but do not depend on the victim to prove violations. Find independent verification of violations.
- Impose appropriate sanctions for violations of conditions of supervision or criminal behavior.

**GUIDELINE 19:**

***Community corrections professionals thoroughly document activities, findings, and problems related to case supervision.***

**RATIONALE**

Case documentation tasks are not unique to domestic violence cases, but the volatility of these cases emphasizes the crucial need for timely and accurate record-keeping. Domestic violence cases may require an immediate need for information to inform critical decision-making. If the primary community corrections officer is not available to intervene during a crisis, other agency staff must be able to access the offender and information about case management activities without delay.

Community corrections officers also have a legal obligation to inform the court or paroling authority of any of the offender's behavior that violates the conditions of supervision or case plan. There is no right of confidentiality between the officer and the offender. Rather, the officer must be able to document and report accurately any pertinent information about the offender to the court.

Further, agencies should measure outcomes including offender change in cognitive and skill development and recidivism. The documentation in offender records can form the basis of an offender evaluation process. Whether records are kept in paper or automated formats, having the data available for review provides the basis for measuring change in individual offender functioning, officer performance, and agency operation.

Officers sometimes view being required to record and document case information as a burdensome chore. Nevertheless, it provides the impetus to regularly review and evaluate supervision activity, assists the officer in tracking the offender's progress toward goals and objectives, and provides documentation of officers' activities.

**IMPLEMENTATION STRATEGIES**

Community corrections officers must record the information necessary to document the activities provided to conduct supervision as ordered by the court or paroling authority. While formats vary in different agencies, officers must record all pertinent contacts with the offender and other significant contacts, such as the victim (with due cautions about confidentiality) and other collateral contacts: family, counselors, police, batterer intervention programs, other resource providers, and community members. Officers should request and maintain periodic written reports from personnel of those agencies significantly involved with the offender. Records must be kept by date and be sufficiently detailed to provide adequate information for supervisory review and for another officer to assume supervision of the case if needed.

It is most helpful to compile information about an offender in one location where the officer, supervisors, and administrators can access and review it. Besides court information such as court orders and conditions of supervision, the following are examples of up-to-date and accurate information that should be secured or produced by the officer:

- Current demographic information;
- Contacts with court and law enforcement agencies including formal petitions as well as informal contacts that do not result in petitions or charges;

- Record of any time spent in custody with any available reports about assessment or behavior while in custody;
- Information about firearms possession with copies of notifications delivered;
- Risk, needs, and strengths assessments;
- Victim information including a victim impact statement (kept separate from offender information);
- Contacts with and reports from batterer intervention program;
- Any mental health or physical health assessments and records of treatment;
- Substance abuse assessment and any subsequent interventions, including information about drug testing and results;
- Case classification documentation;
- Case plan including goals and objectives for supervision and activities for achieving them;
- Periodic reports of supervision activity (called contact reports, quarterly reports, or chronos [for chronological] in some localities) that detail progress toward reaching case plan goals and objectives;
- Supervision responses to compliance and noncompliance and the results of each response administered;
- Documentation of all court activity including notifications to the court and violations as well as the results of each; and
- Case closure information.

Community corrections records, in addition to the formally prepared written report, often form the evidentiary basis for court hearings and must be able to withstand legal and factual challenges. While professionals have a right and a duty to record judgments based on their knowledge and experience, these entries must be identified as such and supported by specifically enumerated details, observations, and discernible facts. Case entries should be specific to the offender's behavior as well as the officer's efforts to implement the case plan. Officers should write court reports with enough detail to support imposition of the recommended action and in a way that is instructive to judges about domestic violence issues. Officers should always use caution in recording and transmitting information provided by victims or about them as the information in a report can be shared with the offender or his attorney.

#### **GUIDELINE 20:**

*Protocols and strategies are adapted as needed to be culturally sensitive.*

#### **RATIONALE**

Cultural competence requires creating practices that acknowledge and embrace multiple cultures. Healey, Smith, and O'Sullivan (1998, p.65) describe cultural competence in the following way:

It is important to recognize that in every culture there are customs and norms that both prohibit and condone violence against women. A culturally competent intervention draws on strengths of the culture, whether it is spirituality, a value placed on the family, or communal social systems. The intervention also addresses weaknesses, such as high rates of alcoholism, harsh child discipline, and gender roles that condone abuse of women.

Community corrections professionals need to develop an understanding of values and practices within different cultures that support nonviolence and learn to reflect these values to offenders who are under supervision.

Key informants and cultural affinity organizations can help community corrections officers enhance this knowledge for the multiple cultural groups that may be represented in their caseloads. (Culture and domestic violence are discussed more extensively in chapter 4.)

## IMPLEMENTATION STRATEGIES

When considering the culture and personal background of each individual offender and victim, the possible combinations can be limitless. Each person may have a unique constellation of race, ethnicity, gender, socioeconomic status, sexual orientation, age, religion, neighborhood, geographic region, physical ability, language, work environment, and many other cultural characteristics that shape their values and behaviors. Thus, rather than trying to provide an exhaustive list of implementation strategies for every possible population group, this section suggests approaches consistent with Healey et al.'s (1998) definition of cultural competence above and provides some possible examples of application.

Healey et al. (1998) first suggest drawing on the strengths of a culture. Many cultural groups have a particular way of viewing the individual in relation to his or her social environment, and while these may be quite different for various groups, each perspective provides cultural resources. For example, many cultural groups have traditions of communalism, especially cultural groups that have experienced oppression. Communalism emphasizes a strong devotion to the interest of one's cultural group rather than those of the larger society or the desires of the group's individual members. Resources are shared, and group members may impose sanctions on members whose behavior is not in the best interest of the group. Social pressure from those with similar cultural ties is often effective with members of such groups, and employing indigenous leaders to convey messages of nonviolence can be helpful. Offenders with strong communal values may also be helped to understand that their intimate partners are socially oppressed when they are abused as perhaps the offender's own race, ethnic group, or religion has been oppressed.

In contrast, other groups' high value placed on individualism asserts a person's own will and independence should take precedence over the interests of the state or a social group. For those who subscribe to this position, individual achievement and self-reliance are important. It may be effective in supervision to help those with this perspective understand that their involvement with the criminal justice system is thwarting their individualistic goals. They can be encouraged to work toward their aspirations as long as they are law abiding. Community corrections professionals might draw upon these offenders' values of equality and fairness to reconsider their dominance and control of their intimate partners.

Other cultural groups may be family-centered, valuing family ties and respect over communalism or individualism. When this is a central value for offenders, supervision strategies can emphasize how offenders can earn respect from their families for responsible parenting, meeting family obligations, and treating their partners with respect.

Healey et al. (1998) also mention that cultural characteristics that justify intimate partner violence must be addressed. If there is a proclivity within the cultural groups from which offenders come for behaviors or beliefs and values that are associated with intimate partner violence, these should be challenged and alternatives recommended. Belief systems that include male superiority, racism, classism and other forms of oppression must be challenged and the belief system should be reframed into nonoppressive and nonviolent behavioral options.

However, offenders from differing cultural groups will have had a variety of experiences with the justice system, and these must be considered when planning interventions. In the United States, the justice system has been created and maintained mainly by and for white, middle class heterosexual, English speaking, and able bodied individuals. Those who do not share these cultural traits often perceive they or their cultural group have been treated unfairly in the past and are likely to harbor resentment and resistance to interventions.

In many cultural groups there is a tradition of deference to authority figures. It is considered impolite or disrespectful within these groups to say no or to disagree, so the tendency is for many people to nod politely and to disregard what has been said. Some cultures refrain from confrontation—especially in public—and members are likely to avoid confrontations while also not complying with requests and directions. It is crucial to understand these qualities and develop strategies for adjusting supervision techniques to achieve compliance and behavior change to the highest degree possible.

### GUIDELINE 21:

***Community corrections personnel remain vigilant about their own and others' safety during the course of supervision.***

### RATIONALE

Convincing information is available that those who intervene in domestic violence cases should employ safety strategies for themselves and others. The Federal Bureau of Investigation (FBI) gathers national statistics on law enforcement officers killed or assaulted in the line of duty, and that data is probably the most relevant that is available for community corrections professionals; no similar national figures are collected for community corrections professionals. However, even the FBI data can be difficult to interpret because incidents are grouped into one category entitled “Disturbance calls (family quarrels, bar fights, person with firearm, etc.)” When the family quarrels are reported separately, they may include incidents other than intimate partner violence, such as violence between parents and children or between siblings. Nevertheless, the data suggests that in some cases domestic violence offenders can present a significant risk to the safety of those who intervene and challenge perpetrators’ violent exercise of their power and control over victims. The data on law enforcement indicate that:

- In 2003, five law enforcement officers were killed while investigating family disturbances (9.6% of all officers feloniously killed during that year).
- During the ten-year period from 1994 through 2003, 57 law enforcement officers were killed while responding to family disturbances (9.3% of all officers feloniously killed during that period).
- In 2003, 17,676 law enforcement officers (30.6%) were attacked while responding to disturbance calls (not limited to family violence).
- Of all law enforcement officers feloniously killed in 2003, 18 of the assailants (nearly one-third) were on probation or parole at the time they committed the crime, and 29 (50%) had received parole or probation on a prior criminal charge.
- Of all law enforcement officers feloniously killed between 1994 and 2003, 167 (22%) of the assailants were on probation or parole at the time they committed the crime, and 291 (40%) had received parole or probation on a prior criminal charge. (FBI, 2004)

These brief statistics indicate that some domestic violence offenders are capable of assaulting or murdering those who attempt to intervene and that in a substantial number of cases the perpetrators were currently on community corrections caseloads or were previously on these caseloads. Exhibit 8-H provides three examples of law enforcement officers killed in 2003 by domestic violence perpetrators.

## IMPLEMENTATION STRATEGIES

Agencies should establish appropriate officer safety policies, and personnel should abide by all safety procedures faithfully. However, many dilemmas are inherent in considerations of safety policies. For example, what degree of risk to officer safety is acceptable, and how does that fit with the goal of promoting victim safety? What is the agency's responsibility to safeguard its employees, and how can that responsibility best be met? Should domestic violence cases be handled any differently from other community supervision cases? One way to start answering these questions is to review officer safety within the agency by looking at the types and outcomes of threat incidents that have occurred in the past few years, evaluating current safety practices, and analyzing staff's compliance with safety policies and procedures. Once that has been accomplished, gaps and needs can be identified and addressed.

The actual duties and responsibilities of community corrections professionals vary markedly among the myriad jurisdictions in the United States. Some are peace officers; others are not. Some have arrest powers, and others do not. Some carry weapons, others do not carry, and for others firearms are optional. Some are authorized to serve warrants, while others cannot. Some supervise only felony offenders, others supervise only misdemeanants, and others supervise both felony and misdemeanor offenders. Some conduct a substantial amount of field work, including home contacts, while others seldom work outside their office settings. Added to this are a variety of organizational differences among agencies (e.g., state versus local administration, court-based or executive oversight, rural or urban settings, and those that have probation and parole as separate or combined organizations).

Given the organizational diversity, it is not feasible to prescribe officer safety practices for every situation. However, agencies and their employees should carefully consider risks and recommended practices when developing policies and procedures for supervising domestic violence cases. Decisions are needed regarding:

- Investigation and analysis of factors that may indicate heightened risk for officer safety as well as victims and others.
- Use-of-force that is appropriate for various levels on a continuum of offender compliance to offender aggression/ hostility.
- Office safety policies and procedures including:
  - Perimeter security (e.g., parking, lighting, access to building entrances, alarm system).
  - Control of access to interior spaces.
  - Security of property and documents.
  - Control for biohazards.
  - Safety and security of office arrangements.
  - Field safety precautions including:
    - Whether field work should be conducted in teams.

*Exhibit 8-H***LAW ENFORCEMENT OFFICERS KILLED BY DOMESTIC VIOLENCE PERPETRATORS**

A sheriff's deputy in Montana was killed on May 29, 2003 while responding to a domestic disturbance call. When dispatch received the call for service, the deputy who was working the shift was about 20 miles from the scene. The deputy requested that the dispatcher ask an off-duty deputy to respond to the call. The responding deputy went to the residence and approached the subject of the disturbance, who left the premises on foot and ran across a nearby highway. The officer followed the man and had several encounters with him but was unable to handcuff him. At that point, the regular on-duty officer arrived to assist. First, he sprayed the suspect with pepper spray in an effort to subdue him. When this proved ineffective, he struck the man several times with an asp and forced him to the ground. Both deputies then seized him, but the man was able to grab the initial responding deputy's service weapon. He fired two rounds, hitting both deputies. The deputy who had first responded to the call was shot in the chest with his own .40-caliber semiautomatic handgun and died at the scene. His fellow officer was hit in the left forearm. The alleged shooter, a 25-year-old male with a history of violent criminal offenses, was arrested at the scene and charged with Deliberate Homicide and Attempted Deliberate Homicide.

A North Carolina sheriff's deputy was killed on April 27, 2003 when he went to a residence with a deputy trainee to serve a domestic violence warrant. Wanting to obtain clothes and other items from the house, the wife of the man being served papers also accompanied the deputy. When they arrived at the house, the deputy and the wife went to the front door and the deputy trainee went to the back of the residence. The deputy knocked on the door. When no one answered, the deputy obtained the key from the wife and opened the door. The woman's husband confronted the deputy, and the two struggled for control of the deputy's handgun. The deputy trainee ran to the front of the house and saw the two men struggling. Not realizing that they were fighting for control of the deputy's gun, the deputy trainee tried to grab one of the man's arms, but the man was able to gain control of the gun and pull away. He then fired three shots at the deputy, one of which was fatal. The man then turned the gun toward the deputy trainee and pulled the trigger, but the gun misfired. The deputy trainee and the man ran to parked cars and exchanged gunfire. The man shot the deputy trainee and then returned to the residence. When additional officers arrived at the scene, the suspect surrendered. The 36-year-old man was charged with First Degree Murder, Assault with a Deadly Weapon with Intent to Kill/Inflict, Serious Injury and Attempted Murder.

On August 27, 2003, a Memphis Police Officer was killed while responding to a domestic disturbance call. The perpetrator went to his girlfriend's apartment and began arguing with her. The woman's sister arrived at the apartment a few minutes later and called 911. The first officer to arrive at the scene knocked on the door and the man and his girlfriend left the bedroom where they had been arguing, and the man answered the door. The officer and the man pointed guns at each other and the girlfriend ran into the bathroom, got into the bathtub, and remained there as several gunshots were fired in the hallway. The man shot the law enforcement officer two times in the head and two times in the shoulder area. The suspect then went into the bathroom and shot his girlfriend in the buttocks and then returned to the hallway and took the officer's handgun and ammunition clip. He reentered the bathroom and shot his girlfriend again. After spotting a second officer outside the apartment building, the man took both women (his girlfriend and her sister) down the stairs on the opposite side of the building. The sister broke free and ran to safety. At the bottom of the stairs, the man kissed the girlfriend, walked to the south side of the building, threw his revolver into the bushes and returned to the entrance hall of the apartment building where he sat down and shot himself with the officer's gun

*(FBI, 2004).*

- Possible probation/parole and police partnerships.
- Communication procedures while conducting field work (e.g., checking in before and after each meeting with offenders).
- Actions that should be taken by community corrections personnel (e.g., arrest, searches, warrant service) and when law enforcement agencies should be asked to perform these.
- Procedures to be taken when encountering a violent incident in progress.
- Procedures for arrest, search, and seizure if these are to be executed by community corrections personnel or protocols for partnering with law enforcement to conduct them.
- Required and optional safety equipment:
  - Body armor
  - Flashlights
  - Clothing or badges for ready identification
  - Telephones and/or radios
- Self-defense tools:
- Pepper spray
- Batons
- Firearms
- Safety training
- Responses to critical incidents

Although they are not specific to domestic violence, two good sources of information and training on community corrections officer safety are available. A free online course entitled, *Basic Safety Workshop for Probation and Parole Officers*, is available at [www.appa-net.org/interactives/workshop01/intro.htm](http://www.appa-net.org/interactives/workshop01/intro.htm) (Registration is required). The document, *New Approaches to Staff Safety*, by Robert L. Thornton (2003) is available online at [www.nicic.org/library/011356](http://www.nicic.org/library/011356) and gives extensive consideration to a multitude of safety issues for community corrections.

Community corrections professionals also must be attentive to the safety of others that may be affected by their interventions. More information is provided in chapter 9 about considerations for victim safety. However, agencies may also need to plan strategies for victims' safety when they need to enter the community corrections office or courthouses. Many courts and community corrections agencies are implementing security measures (e.g., searches, metal detectors) at the entrances to buildings and some have adopted policies such as escorting victims to their cars and allowing victims to leave buildings while keeping offenders there so they cannot assault victims nearby or follow them. Some probation agencies have become partners with organizations and agencies that arrange for safe exchanges of children for visitation in cases that involve domestic violence offenders with stay-away orders. For example the Westchester County, New York, Probation Department works with the local YWCA and other community partners to offer this service for cases they supervise.

**GUIDELINE 22:**

***Community corrections professionals im-pose immediate responses for any violations of supervision conditions.***

**RATIONALE**

The strength of the community supervision of any offender is grounded in the quality and enforcement of the conditions imposed upon the offender. If the supervision conditions are not enforced, the supervision is not only without merit, it is potentially harmful. Lack of enforcement allows the offender to presume that his actions do not warrant consequences and perpetuates the notion of judicial tolerance for continued noncompliant or offending behavior. Domestic violence offenders should be subject to stringent enforcement of conditions because of the potential danger they pose to the victim.

**IMPLEMENTATION STRATEGIES**

To achieve rigorous enforcement of conditions needed for domestic violence offenders, community supervision personnel must cooperate and coordinate with other agencies and individuals to obtain accurate, timely information about the offender's compliance and be prepared to act immediately upon information received. They also must have a clear understanding of the court's position on enforcement and should neither promise nor threaten what the court cannot or will not deliver. Officers should work with the court to develop a common understanding of and system for responses from the court that are most likely to achieve the defined goals of community supervision.

There are core elements to the enforcement of community supervision orders and conditions for domestic violence offenders with or without the application of a domestic violence court. Foremost, establishing and maintaining sufficient contacts to monitor the offender's activities and gain direct and collateral information to accurately ascertain the offender's compliance with conditions is essential. Arrangements should be made by community corrections personnel to receive an immediate alert from batterer intervention programs of an offender's unexcused absences or noncompliance with program expectations. Community corrections staff should aggressively pursue information needed to instruct case management decisions. Further, the information gathered should be shared appropriately and expeditiously with all who should have access to it, including the court when circumstances merit court action and the victim when her safety may be in jeopardy.

Not every act of offender noncompliance merits a return to court; however, every noncompliant act merits a response and a reappraisal of the offender and possible notification of the court or paroling authority. Sanctions should be related to the determined risk. Domestic violence offenders characteristically use advantages they perceive they have to exert power and exercise control over others. They are very likely to view any tolerance for noncompliance as an advantage and to believe it gives them license to continue or increase the noncompliant behavior. Conditions of supervision that might not be so rigorously enforced with other offenders (e.g., completion of community work services as directed) must be stringently enforced with domestic violence offenders to address what is likely a demonstration of the offender's efforts at exercising control of the supervision process.

Depending on the jurisdiction, officers may have the power to take the offender immediately into custody, may have to work with the prosecutor to file a petition to revoke, or may petition the court directly. All officers should be familiar with the revocation process and any procedures in place to expedite case handling. If offend-

ers remain in the community during the court process on the violation, they should continue to be supervised and continue to attend batterer intervention programs and any treatment programs in which they are enrolled. Victims should be notified of the violation process and kept informed of court actions and the offender's custody status. This is a time of increased risk for her, and the officer should increase supervision controls and victim notification accordingly. If a local jurisdiction's detention facility does not have procedures in place for notifying victims when an offender is released from custody, it may be necessary to provide victim notification information with violation reports. Exhibit 8-I provides an example of a domestic violence victim notification form developed by Hennepin County (Minneapolis), Minnesota, Department of Community Corrections.



Thoughtful consideration should be given to available sentencing options after a domestic violence offender is found to be in violation of community supervision conditions. In some cases, a sentence of incarceration provides only a short-term response, and once released, the offender is under no control in the community. A period of incarceration followed by reinstatement to community supervision may be the best course of action to promote victim safety and achieve offender behavior change. Reinstatement with a delayed incarceration (which could be reassessed for suspension) could serve as a viable motivator and reminder of the consequences that exist. Additional or more stringent conditions of release should be imposed. They might include additional weekends in jail, curfews, fines, community service work, increased reporting, and/or increased alcohol and drug testing. Re-ordering the offender to community supervision after he has served time in incarceration can eliminate what some offenders perceive as a more attractive alternative: serving the time, then having no ongoing controls placed on them and no one watching what they do.

While certain high-risk noncompliant behavior or new offenses must receive immediate, maximum sanctions, lesser acts of noncompliance may receive a lesser level of sanctioning depending on the risk the noncompliance poses for the victim. Some agencies have developed a listing of possible graduated sanctions to address offender noncompliance. An example of such a list generated by the Maricopa County Adult Probation Department (Phoenix, Arizona) to address domestic violence offenders' failure to comply with specific conditions is shown in exhibit 8-I.

Many behavioral scientists and criminal justice experts also stress the importance of providing offenders with balanced feedback about their behavior. Meyer (n.d.) offers 10 science-based principles of changing behavior using both reinforcement and punishment. These are outlined in exhibit 8-J.

*Exhibit 8-J*

**TEN SCIENCE-BASED PRINCIPLES OF CHANGING BEHAVIOR THROUGH THE USE OF REINFORCEMENT AND PUNISHMENT**

- 1. Sanctions should not be painful, humiliating, or injurious.**
- 2. Responses are in the eyes of the one exhibiting the behavior (i.e., similar sanctions have different effects on individual offenders, and offenders must perceive the response as fair).**
- 3. Responses must be of sufficient intensity (i.e., graduated rewards and punishments are most effective).**
- 4. Responses (either rewards or punishment) should be delivered for every target behavior.**
- 5. Responses should be delivered immediately.**
- 6. Undesirable behavior must be reliably detected.**
- 7. Responses must be predictable and controllable.**
- 8. Responses may have unintentional side effects (e.g., excessive punishments may result in fear, anger, escape, avoidance; extrinsic rewards for intrinsically motivated behavior can reduce motivation).**
- 9. Behavior does not change by punishment alone.**
- 10. The method of delivery of the response is as important as the response itself (i.e., must be perceived as fair, empathically and enthusiastically delivered, using motivational interviewing techniques).**

*Meyer, W. G. (n.d.), National Drug Court Institute.*

*Exhibit 8-K***INTERMEDIATE SANCTIONS THAT ARE EFFECTIVE WITH DOMESTIC VIOLENCE OFFENDERS**

- A. **Failure to report.** Increase all types of contact, issue directive to report and comply, revoke travel and other privileges, initiate petition to revoke if immediate victim safety concerns are present.
- B. **Failure to obtain/maintain employment.** Place probationer on job search, issue directive to go to local job center or temporary job service agency, increase rate of community service hours until employment obtained, increase reporting to the office until employment obtained, refer to a job training program, issue written probation violation warning.
- C. **Changing place of residence without permission.** Increase all types of contact, increase probationer reporting, impose/modify terms of curfew, issue written probation violation warning, revoke travel or other privileges, initiate petition to revoke if immediate victim safety concerns are present.
- D. **Unauthorized contact with a person with a criminal history.** Issue directive to terminate ongoing contact, increase all types of contact, impose/modify terms of curfew during late evening hours if contact continues to persist, revoke travel or other privileges.
- E. **Possession of deadly or dangerous weapons.** If the weapons belong to the probationer, initiate written memo to the court, initiate petition to revoke seeking reinstatement with added conditions, initiate petition to revoke seeking jail or revocation.
- F. **Consumption of alcoholic beverages.** Written violation admission warning, directive to treatment or halfway house, increased field contacts, increased testing for alcohol, contact with victim discontinued if immediate victim safety concerns are present due to the consumption of alcohol, filing of petition to revoke if immediate victim safety concerns are present.
- G. **Possession and/or use of illicit drugs.** Written violation admission warning, directive to treatment or halfway house, increased field contacts, increased urinalysis testing for drug use, contact with victim discontinued if immediate victim safety concerns are present due to probationer's drug use, filing of petition to revoke if immediate victim safety concerns exist.
- H. **Failure to comply with drug/alcohol testing.** Written directive increasing urinalysis testing, increase all types of contact, written violation admission warning, directive to treatment or halfway house, initiate petition to revoke if immediate victim safety concerns are present.
- I. **Failure to participate in or complete treatment.** Written violation admission warning, directive to attend treatment, revoke travel or other privileges, increase reporting, increase all types of contacts, increase drug/alcohol testing, initiate petition to revoke if immediate victim safety concerns are present.
- J. **Failure to pay court ordered financial sanctions.** Issue directive to complete Payment Ability Evaluation, refer to budget classes if 60 days delinquent, submit memo to the court if restitution is 60 days delinquent, if 90 days delinquent refer to fincom,<sup>1</sup> revoke travel or other privileges, increase reporting until delinquencies paid in full, arrange for compliance facilitation session.
- K. **Failure to comply with order of confinement.** Submit petition to modify with new order of confinement, initiate petition to revoke.
- L. **Failure to comply with community service orders.** Issue directive to complete missed hours the following month, make directives specific to dates and number of hours, revoke travel and other privileges, increase all types of contacts, increase reporting to the office until compliant with community service hours, arrange compliance facilitation session, written violation admission warning.
- M. **Unauthorized victim contact.** Written violation admission warning, increase all types of contact, submit memo to the court, impose/modify terms of curfew, assess need for treatment and redirect to counseling, if immediate victim safety concerns are present, file petition to revoke or at a minimum submit memo to the court.

<sup>1</sup> Fincom is an in-house collections program. Offenders are assigned a collector and have to attend budget classes when they fall behind on their court payments.

*Adapted from Protocol and Desk Reference for the Supervision of Domestic Violence Offenders on Probation, Maricopa County (AZ) Adult Probation Department.*

**GUIDELINE 23:*****Warrants for violators and absconders are processed and served expeditiously.*****RATIONALE**

Too often domestic violence offender warrants are given no special handling by law enforcement, despite the danger posed by the offender. Offenders who abscond during their supervision on community corrections are particularly troublesome for officers and often very frightening for victims. If offenders' whereabouts are unknown and their compliance with conditions is in question, victim safety may be compromised.

**IMPLEMENTATION STRATEGIES**

Community supervision personnel must develop relationships and coordinate with law enforcement to develop a system for expedited service of warrants on domestic violence offenders, and for continuing to attempt service when there is difficulty locating the offender. Community corrections officers can assist law enforcement agencies in serving warrants by supplying additional information besides the offender's residence (e.g., the offender's employer and work schedule, addresses of family members, and areas he frequents). In some jurisdictions warrants for domestic violence offenders are printed on colored paper or placed in brightly colored envelopes to make them readily visible and indicate a higher priority to law enforcement.

Some corrections officers might serve their own warrants if their local statutes allow, or in some agencies, special warrant units are set up to serve all warrants. The supervising officer should assist the warrant unit by supplying appropriate information about the offender and his habits.

Wherever it is legally possible, there should be no bond allowed after an offender's rearrest on a violation of community supervision. They should be held in custody pending a hearing because of the risk they may pose to the victim if they are released.

The victim should be notified of the arrest and of any custody changes during the period of the court action.

Some agencies now list absconders on websites (with or without photographs), in newspapers, and on television programs to enlist public help in locating these offenders. If employing such community involvement strategies, it is important to warn residents that they should not try to apprehend the absconder personally. Methods should be devised for citizens to provide information to community corrections or law enforcement agencies easily and confidentially.

**GUIDELINE 24:**

***Procedures are followed for promoting victim safety when a cross-jurisdictional placement and supervision of a domestic violence offender is requested or carried out.***

**RATIONALE**

At times, it is necessary or advantageous for offenders to move from a locality or State where their crime was committed and where they are supervised to another jurisdiction. Offenders may be residents of the receiving jurisdiction but may have committed their crimes elsewhere; they may have family living in the receiving jurisdiction; or they may need or want to move to obtain employment in the receiving jurisdiction. In the case of domestic violence offenders, they may be seeking a transfer to become closer to a victim or to separate from a victim. Offenders who are also victims of domestic violence may seek a transfer to escape from a domestic violence perpetrator who may be under supervision as well. It is estimated that more than a quarter of a million adult probationers and parolees are in States other than where they were sentenced at any given time. This includes offenders who are supervised under an interstate agreement and those on travel permits. Records are not kept on how many of these may be domestic violence offenders. There likely are many other offenders who go to other States without authorization (Interstate Commission for Adult Offender Supervision, n.d.). Many other probationers and parolees change jurisdictions within the State where they are being supervised, either with or without the permission of the community corrections agency.

Many issues must be considered when the justice system authorizes such a transfer, and a particularly important concern is how to promote victim safety and restoration to the greatest extent possible. Both intra- and interstate transfers may affect victim safety and supervision of offenders. It is vital that jurisdictions develop policies so procedures are clearly defined and decisions are made in the best interest of both victims and offenders.

**IMPLEMENTATION STRATEGIES**

Interstate transfers of offenders are managed in accordance with the Interstate Compact on Adult Offender Supervision. The purpose of the Interstate Compact is to maximize public safety by addressing the transfer of supervision requirements of the member States and Territories. Supervision of offenders on community supervision (probation or parole), who meet specific eligibility criteria, may be transferred to another State under the Interstate Compact system. All 50 of the United States of America, the District of Columbia, and several U.S. Territories participate in the Compact. Offenders eligible for interstate transfer include the following (Interstate Commission for Adult Offender Supervision, 2005):

- Felons on probation, parole, or deferred sentences.
- Misdemeanants whose sentences include one year or more of supervision and one of the following conditions:
  - An offense in which a person incurred direct or threatened physical or psychological harm;
  - An offense that involves the use or possession of a firearm;
  - A second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; and
  - A sexual offense that requires the offender to register as a sex offender in the sending State.
  - The offender has at least three months remaining on his or her community sentence.

Defendants under supervision in a pretrial intervention program or on bail are not eligible for transfer under the Compact. As many domestic violence offenders are charged with misdemeanor crimes and meet the cri-

teria specified above, those who seek interstate transfers are likely to come under the provisions of the Compact. However, many others may have entered into plea bargains to lesser misdemeanors (even though they committed domestic violence) and thus are not subject to the Compact's rules.

Transfers are usually at the request of and for the advantage of the offender, and stipulations that safeguard the victim's interests are appropriate.

- The offender should be in compliance with all conditions of supervision, especially any no-contact or other specific provisions related to the victim.
- The offender should not have a history of violating restraining orders.
- Check with individuals the offender plans to live with to see if they fully agree with the offender's placement and do not have reservations about its effect on their health and welfare.
- The offender should be in recovery from substance abuse and mental health problems.
- The offender should have a realistic plan for employment and self-sufficiency.
- Stipulate that the offender must pay the balance of any restitution owed victims before granting the transfer; if that is not feasible, at least ensure the offender is current with restitution payments before granting the transfer. Provide detailed instructions and necessary materials for the offender to make restitution payments from the receiving jurisdiction.
- The offender's other family support obligations must be current.

In determining procedures regarding cross-jurisdictional transfers, those making decisions should ensure that changes made to accommodate an offender's need or desire to move to another jurisdiction do not inadvertently affect the victim negatively. For example, if the sending jurisdiction has proactive policies for victims (such as notification of changes in offender status) but the receiving jurisdiction does not have comparable procedures, the victim may be disadvantaged when such issues are handled by the receiving jurisdiction.

The Interstate Compact rules include several provisions designed to promote victim safety. The sending State is required to furnish the receiving State a copy of the offender's orders and conditions, documentation of the offender's residency, a copy of a presentence report, if available, a copy of any order of protection, and whether the offender is subject to registration as a sex offender. The receiving State should be able to enforce all of the supervision conditions imposed on the offender by the court in the sending State. If, for example, an offender is required to attend a batterer program and there is no comparable program available in the receiving State, that may be grounds for denying the offender's transfer.

The Compact rules also require that States notify each other when supervision is designated as a victim-sensitive matter. The rules require notification to victims of transfer of offenders and when there are other changes in the offender's status such as a violation or a return to where the victim lives (either permanently or on a travel permit). Supervising community corrections officers in receiving jurisdictions should be especially observant in cases in which the offender has a history of domestic violence. Those who no longer have access to their victims may continue their abusive behaviors toward new intimate partners. Offenders should be required to notify their supervising officer if they begin a new relationship (see guideline 33, chapter 9 for more information). Both States involved in the transfer must make it clear to the offender that violations of supervision conditions will result in the offender's expedited return to the sending State and return to the court or paroling authority for violation proceedings.

Special considerations also are warranted when the offender is the subject of a protective order, whether or not his offense of record included charges of domestic violence. Federal law and some State laws provide that law enforcement agencies must recognize protection orders issued in another State or jurisdiction. This applies whether it is the victim or offender who is traveling from one jurisdiction to another (National Center for Victims of Crime, 2002). Therefore, community corrections agencies should be sure that protective orders that apply to the offenders they supervise are included in national and State registries and that information about protective orders accompany offenders who are granted transfers.

Intrastate transfer of offenders is governed by applicable rules and laws within a given State or Territory but should include the same considerations as described above for interstate transfers. Transfer requests should be thoroughly investigated with impact on victim safety being a primary criterion for approval, and both sending and receiving jurisdictions should work together to enforce and monitor all conditions of supervision.

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# CHAPTER NINE

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## Guidelines for Victim Safety and Autonomy

### GUIDELINE 25:

*Community corrections professionals contact domestic violence victims using methods that promote victim safety and provide victims with information that will help them make decisions about their safety.*

### GUIDELINE 26:

*Community corrections professionals discuss risk assessment information with the victim.*

### GUIDELINE 27:

*Further periodic contact occurs with the consent of victims unless they are being notified of an escalation in their risk or a change in the case status.*

### GUIDELINE 28:

*Community corrections professionals validate the experiences of domestic violence victims, provide encouragement and assistance to victims, promote their safety, and actively support each victim's right to autonomy and self-determination.*

### GUIDELINE 29:

*Community corrections professionals protect the confidentiality of victim information.*

**GUIDELINE 30:**

*Community corrections professionals assist victims with preliminary safety planning and refer them to domestic violence victim advocates for additional safety planning assistance.*

**GUIDELINE 31:**

*Community corrections professionals recognize the risks of separation violence to victims and monitor cases closely to warn victims of related risks and hold offenders accountable.*

**GUIDELINE 32:**

*Community corrections professionals identify additional victims of the perpetrator (if any) other than the victim of record and contact them with information that will help them make decisions about their safety.*

**GUIDELINE 33:**

*Women offenders on community supervision are screened for a history of or current domestic violence and if abuse is present, they are provided the same supportive services as are nonoffender victims.*

**GUIDELINE 34:**

*Community corrections professionals are cognizant of the risks to children and others living with an abuser, report suspected abuse or neglect as mandated, and share appropriate information about the offender's behavior to assist in decision-making about the safety of the victim and others living with domestic violence.*

One strategy that distinguishes community supervision of domestic violence cases from supervision of other types of offenders is the focus on victims, both in terms of the primary goal of victim safety and autonomy and the practice of direct contact with victims. Recent research has validated the benefits of this approach (Klein, et al., 2005). Although community corrections professionals are generally unaccustomed to making victim contact, and such contact often adds to the complexity and challenges of supervising domestic violence cases, researchers have found it is an effective component of community supervision.

Community corrections professionals cannot guarantee the safety of women who are abused. However, these professionals play a crucial role in making it possible for victims to achieve safety, autonomy, and self-determination while also holding offenders accountable for their actions. Indeed, the work and dedication of community corrections professionals prevents the homicides of numerous women throughout the country each year. Community corrections professionals are in a key position to provide support for women who are abused and to respond in ways that can meet their needs more effectively.

**GUIDELINE 25:**

***Community corrections professionals contact domestic violence victims using methods that promote victim safety and provide victims with information that will help them make decisions about their safety.***

**RATIONALE**

Domestic violence supervision requires a unique blend of community correction practices. These practices attempt to incorporate multiple agencies (e.g., advocates, law enforcement), supervision, and intervention components for offenders, and concerted attempts to contact and interact with victims. Often, victims are doubtful of justice system officials and may appear uninterested in working with community corrections officers. This should not diminish the importance of officers working with such victims. In one specialized domestic violence unit in Rhode Island, probation officers sent letters (without a return address) to the victims of domestic violence offenders under supervision. These letters only reached approximately half of the victims of their domestic violence probationers, but nonetheless had a significant impact on victim satisfaction. In fact, subsequent interviews by domestic violence advocates with victims revealed that those reached by the officer appreciated the officer contact and were more satisfied with probation's efforts and its positive effects on the probationer. Crucial to improving community supervision practices was that contacted victims indicated an increased likelihood of reporting no-contact violations (Klein, et al., 2005).

**IMPLEMENTATION STRATEGIES**

The community corrections professional's first contact with a domestic violence victim should occur as soon as possible (see guideline 14 regarding expedited processing of cases to begin supervision tasks quickly). At the first contact and throughout the supervision period, community corrections professionals must provide victims with information and notification that is consistent with victim's rights in a jurisdiction. This often includes notification of change in the offender's status, such as being released from or placed in custody. If the community corrections professional learns that risk to the victim has escalated, the officer must attempt to notify her of the potential danger she faces. Offenders should be told initially and reminded throughout supervision that contact with victims is a standard part of community supervision and they are not to interfere with this contact.

A common difficulty in contacting victims is not having information about their current location. Domestic violence victims may relocate for their safety, or the arrest and subsequent legal status of the offender may affect victims' abilities to remain in their homes. Community corrections professionals should work with law enforcement agencies to encourage police to ask victims to provide third party contacts able to get messages to them safely if the victim leaves the address given to police at the time of their abusers' arrest. Similarly, when community corrections professionals first contact victims, they should request alternate contact information to advise them of matters involving their safety.

**Techniques for Telephone Contact**

Community corrections agencies should consider carefully telephone communication with victims. Increasing technological options, such as caller identification, may make it impossible to contact victims without the offender knowing at the time or at a later time that a call has been received from the probation officer's number. If the community corrections agency has the ability to block its phone number from appearing on the receiver's caller identification, this may be an important step to take. However, even with this precaution, offenders may be suspicious of calls that are received. If officers contact victims by telephone, they should do so with full consid-

eration of safety risks, and plan accordingly. The following techniques support the safety of domestic violence victims if the community corrections professional is making telephone contact:

- Upon reaching the victim by phone, ask if this is a good time to talk. If not, inquire as to whether the victim prefers to be called back later. Assume that the abuser still has control of every conversation.
- Do not leave a message on the answering machine for the domestic violence victim.
- Do not hang up if the abuser answers the phone. Instead, engage him in conversation related to his supervision (e.g., I am calling to confirm your next appointment at . . . Please bring your most recent pay stub).
- Have protocols in place for a response if an offender answers the phone at a victim's residence and there is an active order of protection in place prohibiting contact. This would be a clear incident of noncompliance by the offender and should receive an appropriate response.

### **Practices for In-Person Contacts with Domestic Violence Victims**

- Gather preliminary case information prior to interviewing victims.
- Always interview a domestic violence victim and the offender separately. Be aware that victims may minimize or underreport the extent of the abuse.
- Conduct the interview at the convenience of and location chosen by the victim.
- Clarify the roles and responsibilities of the community corrections professional and agency. Both the community corrections professional and the community corrections agency have a unique and powerful role in supporting her safety and autonomy while holding the offender accountable.
- Community corrections professionals should tell victims what community corrections officers can and cannot do. The victim should be instructed to call police for emergency needs rather than the community corrections agency.
- Community corrections professionals should research, understand, and clearly explain victims' rights under State and Federal laws and regulations.
- The community corrections professional should use a domestic violence victim contact checklist whenever possible, such as the one shown in exhibit 9-A.
- Community corrections professionals should provide and discuss conditions of the offender's supervision, including the frequency of contact the officer has with the offender, requirements for batterer program participation, no-contact orders, mental health and substance abuse treatment, and fees for which the offender is responsible.

### **Procedures for Written Communication with Domestic Violence Victims**

- It is **not** recommended for community corrections professionals to send communications electronically (e.g., email, fax) to domestic violence victims. Neither the sender nor receiver can control whether others have access to this type of communication. Even if a victim contacts a community corrections professional by email or fax, careful consideration should be given to whether to respond in like fashion.
- If written information is sent by mail or other delivery methods, it may be best to use plain envelopes without a return address. However, if this practice is used, the community corrections professional has no way of knowing whether the victim actually receives the correspondence. Some domestic violence offenders will routinely control and read a victim's mail, even when it is addressed only to her. Victims also often relocate, and without return addresses, there is no way for the letter to be returned to the agency.
- If written rather than in-person contact is made with victims, the same information as covered above should be included in the correspondence such as the roles and responsibilities of community corrections agencies and professionals, victims' rights, and the offender's conditions of supervision. How victims may contact community corrections officers must also be included as well as other resource information victims may need.

*Exhibit 9-A***DOMESTIC VIOLENCE VICTIM—PROBATION CONTACT CHECKLIST****Prior to Meeting**

- Contact domestic violence program, as appropriate
- Inform about case status
- Offer to make contact on terms of the woman who is abused (safe and convenient)

**Safety**

- Always interview out of line of sight and range of hearing of the offender
- Describe all terms and limits of confidentiality policy
- Explain to the woman who is abused that continued involvement with the agency is voluntary.
- Ask about and document safe procedures for future contact
- Offer to provide copies of order(s) of protection
- Discuss preliminary safety plan and refer to domestic violence program
- Provide police contact information

**Offender Accountability**

- Explain terms of Order and Conditions
- Explain restitution policy, as necessary
- Describe the role of Probation Officers
- Explain offender is in legal custody of the court
- Monitor and enforce Order and Conditions
- Monitor and enforce other court orders
- Inform about implications of Peace Officer status
- Explain “duty to act” and “mandated reporter”
- Describe the Violation of Probation process
- Describe batterer program limitations and protocols, if a condition of Probation

**Assistance**

- Review and provide Notice of Victims’ Rights for family offenses
- Inform what Probation can and cannot do
- Offer referral information
- Offer local domestic violence program information
- Provide shelter information, as necessary
- Assist with court access
- Facilitate access to medical care
- Provide 24-hour hotline number for the local domestic violence program
- Inform her how to contact community corrections staff and agency and encourage her to do so

*(NYS PDVIP, 2003)*

**GUIDELINE 26:**

*Community corrections professionals discuss risk assessment information with the victim.*

**RATIONALE**

As discussed in chapter 7, initial and ongoing investigations of domestic violence cases are very important, and victim input is essential if the victim is willing to participate in the process. Involving victims in the investigation provides a useful opportunity to inform victims about risk.

**IMPLEMENTATION STRATEGY**

Victims are usually the most knowledgeable individuals about their own risks and safety needs. In situations in which victims indicate they feel their safety is in jeopardy, their assessment should be considered valid and they should be given the necessary support needed to maintain their safety. Community corrections professionals also must recognize that victims' actions often are calculated to avoid additional risk and further their safety. However, some victims are so terrorized and isolated by their abusers that they may not be able to make objective assessments of their situations. If in the processes of investigation and supervision, the community corrections professional becomes aware of risk information that the victim does not know, or if the victim appraises her own level of risk lower than is indicated by known risk factors, the officer should share the information with her and indicate that she may be in greater danger than she assumes. For example, if the officer becomes aware that the offender is no longer attending a batterer program and has started abusing alcohol, it is important to let the victim know that in many cases, these behaviors indicate that the level of violence is likely to increase. It may also be important to question victims initially and periodically thereafter about certain risk factors that they may not readily report (e.g., sleep disturbances, anxiety, financial pressures) as a way of educating them about these risk factors and probing for information that the victims may not understand is important to disclose. Victims also should be told about offenders' firearms restrictions.

**GUIDELINE 27:**

*Further periodic contact occurs with the consent of victims unless they are being notified of an escalation in their risk or a change in the case status.*

**RATIONALE**

Community corrections officers must be cognizant of the potential intimidation that many victims, and especially domestic violence victims, experience when interacting with justice system professionals. It is important to remember that many domestic violence victims suffer from what Ganley (1996) refers to as a pattern of ongoing abuse and victimization—physical, psychological, emotional, sexual, or financial—and that these abusive acts potentially have long lasting and traumatic effects on victims. That is, victims have suffered numerous individual abusive encounters before they decide to actively participate with the justice system. In fact, only about half of all domestic violence victims ever report these offenses to the police.

There are undoubtedly numerous reasons victims choose not to participate with the justice system. Ames and Dunham (2002: 7) suggest that victims are often met with scrutiny by justice professionals, as the police may question which party was the aggressor, police officers sometimes resent victims who do not want to participate, or a judge may be unwilling to break up the family. These set-backs are compounded when an offender is released—potentially without more than a single night in jail—and returns to continue the victimization (see Goldsmith, 1991). Not only do victims not participate with prosecution, but research also suggests that leaving offenders often is not a safe alternative for women with few options (see more on separation violence in guideline 31).

## IMPLEMENTATION STRATEGY

Every woman who is abused is the expert on her own experiences. Therefore, domestic violence victims have a right to choose not to participate in the community corrections process, and their decisions should be respected. Her participation and contact with community corrections professionals is voluntary, and she may decline to have ongoing contact with officers for a variety of reasons. Nevertheless, community corrections professionals should indicate future contact is welcome when she decides it is safe for her to do so and in a manner she indicates would be safe for her. (See attachment 7-A for a sample victim contact letter.) As mentioned in guideline 14, offenders should be told at the beginning of supervision and reminded periodically that the officer's contact with the victim is a standard part of the supervision process.

- Discuss and plan for future contact, if she wants it, and ask for her suggestions on the best way to maintain her confidentiality and safety.
- The community corrections professional should provide victims with ongoing notification of all activities, changes, and issues in the case.

### GUIDELINE 28:

***Community corrections professionals validate the experiences of domestic violence victims, provide encouragement and assistance to victims, promote their safety, and actively support each victim's right to autonomy and self-determination.***

## RATIONALE

Domestic violence victims suffer multiple forms of abuse in which they are exposed to numerous physically and psychologically traumatic episodes. Community corrections professionals need to recognize that these victims have, for the most part, lived with an abuser for a long time and are often in the best position to determine their relative level of safety. For this reason, officers should be respectful to victims' decisions and allow them the freedom to make their own choices.

## IMPLEMENTATION STRATEGIES

Domestic violence victims are subject to the coercive control of their partners in all aspects of their lives. Too often, social institutions have colluded with perpetrators to sustain their positions of power. Thus, one of the goals of community corrections interventions is to support abused women to restore control over their own lives. Interventions by community corrections professionals should focus on helping domestic violence victims evaluate available options and make informed decisions.

- Community corrections professionals have a crucial responsibility in reassuring domestic violence victims that they are not alone with their experiences of abuse and that they did not cause the abuse. Making com-

ments such as, “You don’t deserve to be abused. It’s not your fault, and there’s nothing you have done to cause him to abuse you,” can begin to provide this reassurance.

- Community corrections professionals can play an important role in providing information and referrals to domestic violence services and support for women who are abused. A community corrections professional may be the first person who has ever said to her, “I’m concerned about you, and when you are ready, help is available.”
- Interventions implemented by community corrections professionals should focus on helping women who are abused explore and evaluate available options and design personal safety plans that reflect their stated needs and goals. This includes providing information about potential risks and about available services and facilitating a woman’s voluntary involvement in those services. Victims should never be mandated to accept assistance or become involved in services (State of New York, 1998).
- Community corrections professionals should offer support and referrals but should not force victims to accept written information (e.g., brochures, business cards) if they feel it is not safe for them to do so. The abuser might go through her purse or pockets and use the information as a reason to continue or escalate abuse. Thus, it is crucial for her to decide what information she will take. Community corrections professionals should be accessible to the woman who is abused, listen nonjudgmentally, validate her concerns, support her, and refer her to domestic violence advocates, if she requests such contact.

### GUIDELINE 29:

*Community corrections professionals protect the confidentiality of victim information.*

## RATIONALE

One way many domestic violence victims protect themselves is by not sharing information that they know (or assume) will be disclosed in court or elsewhere and could be used as a rationale by the offender to abuse them further. Other victims may have relocated for their safety and want to maintain confidentiality of their address.

## IMPLEMENTATION STRATEGIES

To the extent possible, the statements, addresses, and telephone numbers of domestic violence victims should be kept confidential. Community corrections agencies should ensure that all information about victims who are abused is secure, that appropriate precautions are taken to prevent access by abusers to information about their partners, and that there are clear and commensurate sanctions for community corrections staff who violate security protocol (State of New York, 1998).

Agencies should establish procedures to try to protect victim confidentiality when courts subpoena records. The offender’s defense counsel may use discovery rules to gain access to community corrections records. Some agencies do not include victim information in the offender’s records. In other agencies, a notation about confidentiality is included in entries that contain victim information so the judge can review it and redact anything that may jeopardize victim safety.

- The officer must carefully **explain** the agency’s regulations and policies regarding confidentiality of information at the first contact with victims (and thereafter as needed). Officers should **inform** victims fully about how information they provide will be shared or used. If the agency’s **policy** is to disclose certain types of

information in court, even if the abused woman wants it to be kept confidential, make sure she knows of that policy at the beginning of the interview. The victim should be told precisely what information, if any, will be **shared** with the offender and how information provided by her will be used. The victim should also be informed fully as to what offender information will be shared with her. Discussing the limitations of confidentiality policies at the first contact with the victim and being honest about these requirements will help establish **trust**. This also could be a lifesaving measure.

- Inform victims about community corrections professionals mandates for reporting prior to beginning the interview. Explain peace officer reporting requirements when child or elder abuse/neglect is suspected, when a person threatens to commit a crime, and when a person threatens to harm herself or others.
- Interview women who are abused out of the line of sight and hearing range of their abusers. Women who are abused cannot talk freely when their abusers are present. The risk of retaliation is lessened (although not eliminated) and more accurate disclosure is promoted when the parties are interviewed separately.
- Victim location and contact information must be kept confidential unless the victim specifically allows release. Do not tell the offender, or the offender's agent/attorney, anything the victim has said. Once information is conveyed to another person, be it verbal or written, there can be no control of its dissemination. "It serves no purpose for a victim to relocate or seek temporary refuge with friends or family members if the legal system is going to make her whereabouts known." (State of New York, 1998, p. 36)

Additional information about justice system issues of privacy and confidentiality can be found in the following documents:

*Justice Information Privacy Guideline: Developing, Drafting and Assessing Privacy for Justice Information Systems*, National Criminal Justice Association, available at [www.ncja.org/pdf/privacyguideline.pdf](http://www.ncja.org/pdf/privacyguideline.pdf).

*Privacy and Information Quality Policy Development for the Justice Decision Maker*, Bureau of Justice Assistance, available at [http://it.ojp.gov/documents/200411\\_global\\_privacy\\_document.pdf](http://it.ojp.gov/documents/200411_global_privacy_document.pdf).

- Information about the victim must be kept separate from offender information in community supervision files, and only staff with designated clearance should be able to access the information. Automated case management systems must be constructed to offer this security and separation of offender and victim records. Ensure that the offender does not have access to any victim information by keeping it in a locked file cabinet, another office, or password protected computer files.
- Community corrections professionals should not share information with other agency staff, except on a "need to know basis." Case information that is inadvertently "leaked" through third parties may have significant safety repercussions.
- Even if the victim gives community corrections professionals permission to share what she has said, instead, try to obtain the same information from a source that can be cited without indicating that she was the source. For example, if she "confides" that the offender was high on cocaine at the time of the assault, try to find and cite indicators of cocaine/drug use in other sources (e.g. police report, prior criminal history, medical history, drug test results). Community corrections professionals may need to find and use resources that are not generally utilized in other cases.

**GUIDELINE 30:**

***Community corrections professionals assist victims with preliminary safety planning and refer them to domestic violence victim advocates for additional safety planning assistance.***

**RATIONALE**

Safety planning is a tool for developing safety strategies, not a solution to domestic violence. It is a strategy for women who are abused to contextualize their daily experiences and the safety-based decisions they make on an ongoing basis.

**IMPLEMENTATION STRATEGIES**

Safety plans can be made for a variety of situations including a physical assault by a partner, continuing to live with a partner who has been abusive, and planning to end a relationship with an abusive partner. A safety plan does not have to be written, but if a woman decides to develop a safety plan on paper, it should be kept in a place where the abuser will not find it. Even the most comprehensive safety plan is not a guarantee that a woman who is abused will be safe.

- If a domestic violence victim has not made contact with a domestic violence advocate and does not have a safety plan, community corrections professionals may be the first to have an opportunity to help victims with this important process. Exhibit 9-B contains a list of questions that can be asked of victims to help them formulate a preliminary safety plan.
- Community corrections professionals should instruct victims to contact the police, instead of the community corrections agency, in the event of immediate danger.
- Women who are abused should be referred to domestic violence advocates to complete a more comprehensive, long-term safety plan. However, they should never be required to seek assistance from an advocate. A safety plan should consider information regarding the abuser's use of technology to perpetrate abuse or stalking (e.g., GPS chips in cell phones to track her movement, accessing her email and phone messages).
- Victims should also be encouraged to develop safety plans with their children.

*Exhibit 9-B***PRELIMINARY SAFETY PLAN QUESTIONS THAT A WOMAN WHO IS ABUSED MAY CONSIDER**

- Where can you keep important phone numbers (police, hotline, friends, shelter) for yourself and your children?
- Is there anyone you can ask to call the police if they hear suspicious noises coming from your house or apartment?
- If you need to get out of your house or apartment in a hurry, what door, window, elevator or stairwell will you be able to use to get out safely?
- If you need a place to stay for a while, where can you go? Can you arrange to stay with family or friends in a crisis? Do you know how to contact the local domestic violence program in order to arrange for emergency shelter?
- Where can you keep your purse, an extra set of car keys or money for public transportation, and some change to make a phone call so that you can grab them quickly?
- Do your children know how to use the telephone to contact the police?
- Is there a code word or signal you can use with friends, family and/or your children to alert them to call for help?
- Can you keep some money, some changes of clothes and important papers (e.g. birth records and social security cards for yourself and your children) hidden somewhere your partner doesn't know about, but that you can get to quickly? Can you keep the "escape bag" with a neighbor or in the trunk of your car?
- If you think your partner is about to become physically abusive, how can you get to a room where there are fewer things that can be used as weapons? How can you avoid getting trapped in the kitchen, bathroom, basement or garage?

*(NYSCADV, 2004)***GUIDELINE 31:**

***Community corrections professionals recognize the risks of separation violence to victims and monitor cases closely to warn victims of related risks and hold offenders accountable.***

**RATIONALE**

Domestic violence does not end when a victim leaves her abuser. In fact, separation from an abuser is one of the most dangerous times for a victim of domestic violence. Furthermore, the abuse routinely continues after separation and often escalates in severity. A variety of reasons motivate domestic violence offenders to continue abuse after separation. Offenders perpetrate abuse as a means of gaining power and control over an intimate partner, and they will likely escalate those controlling behaviors once they feel their power and control is threatened.

Women who are abused often feel trapped, simply because they are. Every choice that a victim may consider involves a variety of risks when she is thinking about seeking help or ending the relationship. A common question asked about women who are abused is, "Why doesn't she just leave?"

Clearly, victims do leave their abusers despite great and potentially fatal risk. However, the multitude of barriers abused women must face, including escalating abuse and the potential for revictimization by systems that should be providing support (see Epstein, 1999), force many women to return to their abusers. The following studies emphasize the separation risks for victims:

- Campbell, et al. (2003) reviewed femicide cases across 11 cities to determine risk factors. One of the strongest predictors found involved the victim leaving the offender, especially if she was leaving for another partner.
- A 1991 study by Harlow (as cited by Hart, 1998) found that separating and divorced women were 14 times more likely than married women to report violence by a spouse or ex-spouse. Although separated or divorced women made up ten percent of the study sample, they reported 75 percent of the domestic violence.
- A survey of divorced Philadelphia-area women found that after separation, nearly half of the women experienced violence from their estranged husbands (Kurz, 1996, as cited by Hart, 1998).
- In an earlier administration of the National Crime Victimization Survey, researchers found that among victims of violence committed by an intimate, the victimization rate of women separated from their husbands was about three times higher than that of divorced women and about 25 times higher than that of married women (Bachman & Saltzman, 1995).

Leaving an abuser usually is a process rather than a single action taken by the victim (Ames & Dunham, 2002; Ferraro & Johnson, 1983; Landenburger, 1988, 1989; Walker, 1984; May, 1990). Indeed, it is reported that women who attempt to leave abusers do so an average of five times (Okun, 1986) and take an average of eight years (Horton & Johnson, 1993) before the separation becomes permanent.

In a summary of domestic violence fatality reviews, Websdale, Sheeran, and Johnson (n.d.) noted important findings on the role of separation related to domestic homicides.

- In a review of 51 homicides in Santa Clara County, California, 26 of the couples were separated or divorced at the time of death.
- Of 106 cases of female murders by intimate partners in Florida in 1994, the third most frequently found situational antecedent of the homicides was "attempting to break away from the perpetrator, including divorce, separation, and estrangement. In a number of cases of breaking away researchers identified accompanying relationship difficulties regarding such matters as child custody/visitation" (p.12).
- In a report to the Governor of New York by the Commission on Domestic Violence Fatalities in 1997, 43 of the 57 domestic violence homicide victims had terminated, or had indicated an intention to terminate, their relationships at the time of the homicide.

The above research demonstrates the significant danger facing domestic violence victims. These findings consistently identify the serious risks associated with separation for intimate partner homicide victims. Many domestic violence myths exist, and one such myth argues that victims are always safer by simply leaving the abuser; the previous research debunks that misperception.

Further, several homicide studies indicate that the most dangerous time for lethal violence is the first two to three months following separation. Although risk decreases over time, some perpetrators do murder their former intimate partners long after the separation occurs (Hardesty, 2002).

Not only is danger an important factor women must consider when they contemplate leaving a violent partner, but their economic viability is also a crucial factor. The most likely predictor of whether a battered woman will permanently separate from her abuser is whether she has economic resources for survival without the abusive partner (Okun, 1986). Exhibit 9-C provides a list of other risks and considerations for victims who contemplate leaving a relationship.

*Exhibit 9-C*

### SEPARATION RISKS

#### Physical and psychological abuse

- Threats and violence will get worse for the woman, her friends, or family
- Abuser will follow through on suicide threats and harm himself
- Continued harassment, stalking, and verbal and emotional abuse
- Rape or sexual abuse
- Serious physical harm and/or death

#### Children

- Emotional, physical, or sexual abuse of the children, especially if the abuser has unsupervised visitation or inappropriately supervised visitation
- Losing children through parental kidnapping or as the result of a legal custody decision

#### Financial

- Loss of home, possessions, neighborhood
- Losing income or job – loss of partner’s income, quitting a job to relocate or to fulfill the responsibilities of single parenthood, or being prevented from working by abuser

#### Relationships

- Losing partner, losing the relationship
- Losing help with children, transportation, household
- Women who are older or have disabilities may lose caretaker
- Unsupportive responses from friends, family members, professionals, faith-based community leaders, and other community members
- Not being believed or taken seriously, being blamed, being pressured to do something she’s not ready or able to do
- Being judged as a bad wife, partner or mother
- Being pressured to maintain the relationship
- Actions of “helpers” may increase danger

#### Arrest/Legal Status

- Being forced into criminal activity
- “Taking the rap” for a crime committed by the abuser
- Partner’s arrest
- Loss of residency status with potential impact on family in country of origin (immigrants)

*(NYS OPDV, 2001)*

In light of these findings, then, it seems crucial for community corrections officers to understand the elevated potential for revictimization and homicide during trigger points in a relationship (e.g., divorce, separation, delivering court papers). Community corrections officers can prepare the offender for such incidents and make him aware of treatment services and that the conditions of supervision will be enforced. Similarly, officers should contact victims to inform them of community resources to ease their transition away from an abuser.

## IMPLEMENTATION STRATEGIES

Given the potential for extreme danger and lethality, it is essential for community corrections officers to allow domestic violence victims to make their own safety decisions. Officers, obviously, cannot force victims to leave an offender, nor is this always the safest option, but officers can rigorously enforce supervision conditions and hold offenders accountable for their actions. Additionally, the officer should be honest and forthright with the victim about the risk factors that exist, especially as they escalate. It is the combined effect of these community corrections practices that has the greatest potential to increase victim safety.

Community corrections professionals should be attuned to the risks of separation violence in the cases they manage. Although the offender is ultimately responsible for his behavior, much can be done to promote the victim's safety. The following practices are suggested:

- Monitor the status of the intimate partner relationship. At the first contact, find out whether the victim and offender are still in a relationship or have separated. Frequently check on whether changes have occurred (e.g., partners have separated or separated partners have reunited). Verify information about the status of the relationship with collateral sources, such as the victim (if involved), neighbors, or relatives.
- If a victim confides that she is planning to or has recently separated from her partner, or if other dynamic changes are imminent (e.g., the offender will be served with divorce papers or a child custody decision), encourage the victim to inform her advocate also, if she has one, and to develop or update her personal safety plan.
- Inform the victim that her risk is higher during separation.
- Encourage victims to share information with you that they think is pertinent to their safety (e.g., increased substance abuse by the offender). However, advise victims that if they are in immediate danger they should call 911.
- Request, monitor, and enforce conditions of supervision that are intended to impede offenders from using abusive or violent tactics, such as:
  - No contact with victims or their families
  - Accept service of and abide by protective orders
  - Payment of family support
  - Not using the legal system against their partners (e.g., custody battles)
  - Following the orders of civil/family courts regarding child custody, visitation, and support
  - Abstinence from psychoactive substances
  - Forfeiture of weapons and suspension of firearms license
- Increase supervision contacts for a few months after partners separate.
- Maintain the confidentiality of all victim information (see guideline 29).
- If separated partners reunite, investigate to learn if the victim's return to the relationship was the result of threats, intimidation, stalking, use of children, violence, economic control, or legal coercion.

- Obtain information about relevant community resources that victims will need if they consider separation, and provide this information to victims (e.g., domestic violence victim advocates, legal resources, housing, economic resources).
- Respect victims' decisions to stay with their partners. Understand that they make choices they think are in their or their children's best interests, and these may be different from the choices officers think they would make in similar circumstances. Offer support to victims whether they stay in or leave their relationships.

### GUIDELINE 32:

***Community corrections professionals identify additional victims of the perpetrator (if any) other than the victim of record and contact them with information that will help them make decisions about their safety.***

### RATIONALE

Domestic violence is the manifestation of a pattern of violent and abusive behavior, usually identifying a tendency on the part of an offender to rely upon these tactics as a principle method for controlling his intimate partner. This is not to say that all domestic violence offenders are generally violent individuals (see Holzworth-Munroe & Stuart, 1994), but rather to identify the likelihood for repeat victimization. Klein et al. (2005) found that over a one-year period more than a quarter (28%) of the probationers rearrested for a new crime of domestic violence went on to abuse a different partner or family member. Bocko, Cicchetti, Lempicki, and Powell (2004) found similar results in their analysis of domestic violence offenders in Massachusetts. They found that 43 percent of the offenders arrested for violating a civil restraining order had two or more victims over a six year period. This confirms an earlier finding that 25 percent of individuals with protection orders taken out against them in 1992 had from two to eight new orders taken out against them by different and unrelated victims over the subsequent six years (Adams, 2000). Community corrections officers should consider these research findings when supervising domestic violence cases because they highlight a common pattern of repeated victimization of multiple partners by the same offender.

### IMPLEMENTATION STRATEGIES

Some domestic violence offenders remain fixated on a single victim. However, others may separate from one victim and then go on to abuse another intimate partner. Others may abuse multiple intimate partners and family members simultaneously.

Even if the abuser under supervision is no longer with the partner who was the victim in the present case for which the offender was placed on community supervision, any new partner is likely to be at risk for abuse. Therefore, it is important for officers to identify new intimate partners, and ensure they are informed about potential risk.

- Require offenders to identify new partners to community corrections professionals.
- Require offenders to inform partners of their probationary status and history of intimate partner abuse (see exhibit 9-D, Intimate Partner Disclosure form).
- Routinely check for new protection orders, police reports, or arrests of offenders that involve different victims.

- If offenders do not inform new partners of their domestic violence history as required, alert victims to their risk for abuse and take appropriate measures to promote their protection using procedures for safe contact outlined in guideline 25. Exhibit 9-D provides a sample form developed by the Lane County, Oregon, Department of Parole and Probation to direct offenders to notify new intimate partners of their pattern of violent behavior.

*Exhibit 9-D***INTIMATE PARTNER DISCLOSURE**

Domestic violence is a pattern of behaviors in which one partner attempts to establish or maintain power and control over the other through physical, sexual, and/or psychological abuse.

As a result of your abuse of your present or former intimate partner, you are under the supervision of a specialized Domestic Violence Supervision Unit. The purpose of this unit is to: (1) enhance the safety of your victim(s) and the community; (2) assist you in accepting responsibility and accountability for your violent behavior; and (3) assist you in ending your violent behavior.

Because domestic violence is a pattern of behaviors that you have learned and chosen to engage in, any present or future intimate partners are considered at risk of becoming a victim of your violence. In the interest of enhancing the safety of potential victims within the community, the Domestic Violence Supervision Unit requires that you:

1. Provide your PO with the full name, telephone number, and address of any person that you are romantically involved with (dating, girlfriend, wife, or other sexual/romantic relationship). This includes anyone you become involved with in the future.
2. Disclose the extent and nature of your domestic violence to your current intimate partner. Because your intimate partner may be at risk of violence, (s)he has the right to make a decision about her/his own safety based on all public information relating to your domestic violence history. This public information may include arrests, restraining orders and violations, stalking orders and violations, and convictions. You are also encouraged to share with your partner your history of domestic violence that did not come to the attention of the legal system. Your intimate partner will be contacted by the Domestic Violence Supervision Unit to verify that you have completely disclosed all public information relating to your domestic violence. If your intimate partner wishes to continue a relationship with you, (s)he will also be provided with information about the conditions of your supervision and available community resources.
3. Have no offensive contact with your intimate partner.

Sign below if you understand these directives.

\_\_\_\_\_

Offender

\_\_\_\_\_

Date Reviewed

\_\_\_\_\_

Parole/Probation Officer

\_\_\_\_\_

Date

*(Source: Lane County Parole and Probation Department, Eugene, OR)*

**GUIDELINE 33:**

***Women offenders on community supervision are screened for a history of or current domestic violence and if abuse is present, they are provided the same supportive services as are nonoffender victims.***

**RATIONALE**

A growing number of women offenders are involved in the criminal justice system. In 2000, 85 percent of the more than 1.1 million women in the criminal justice system were under community supervision:

- 884,697 (78%) on probation
- 87,063 (7%) on parole
- 162,026 (14%) in jails and state and federal prisons

Similar to their male counterparts, women offenders are disproportionately women of color, low income, undereducated, and unskilled, with sporadic employment histories. Compared to men, they are more likely to have been convicted of crimes involving drugs or property and less likely to have committed violent offenses (Bloom, Owen, & Covington, 2003).

Women in the criminal justice system are much more likely than their male counterparts to report having been abused previously, and have an even greater likelihood of reporting that their abusers are current or previous intimate partners, as shown in exhibit 9-E (Harlow, 1999).

*Exhibit 9-E***HISTORIES OF PHYSICAL OR SEXUAL ABUSE OF INMATES AND PROBATIONERS**

|                        | Ever Abused  |              | Abused by an Intimate Partner |              |
|------------------------|--------------|--------------|-------------------------------|--------------|
|                        | Males        | Females      | Males                         | Females      |
| <b>State Inmates</b>   | <b>16.1%</b> | <b>57.2%</b> | <b>5.8%</b>                   | <b>61.3%</b> |
| <b>Federal Inmates</b> | <b>7.2%</b>  | <b>39.9%</b> | <b>6.5%</b>                   | <b>66.3%</b> |
| <b>Jail Inmates</b>    | <b>12.9%</b> | <b>47.6%</b> | <b>3.1%</b>                   | <b>42.8%</b> |
| <b>Probationers</b>    | <b>9.3%</b>  | <b>40.4%</b> | <b>5.7%</b>                   | <b>56.7%</b> |

*Source: Harlow, C.W. (1999). Prior abuse reported by inmates and probationers. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice.*

According to victims' reports, about 14 percent of violent offenders are females, but about 62 percent of female violent offenders had a prior relationship with the victim as an intimate, relative, or acquaintance. When women committed violent offenses against men, 35 percent of them attacked an intimate partner or relative (Greenfeld & Snell, 1999).

The dynamics of domestic violence may be critical, causal factors in the criminal behavior of women supervised by community corrections who are also victims of domestic violence. Many women who are abused report being coerced by their partners to commit welfare fraud, write fraudulent checks, use or sell drugs, or "take the rap" for crimes the abuser committed.

Between 1998 and 2002, 13 percent of offenders who nonfatally abused a spouse were females. Females constituted 15.6 percent of offenders who used force with a boyfriend or girlfriend (Durose, Harlow, Langan, Motivans, Rantala, & Smith, 2005).

A small group of women (about 2 % of those arrested for domestic violence) perpetrate violence against intimate partners to control them and keep them from ending the relationship (Busey, 1993).

Community corrections professionals should be alert to the dynamics of domestic violence, particularly in supervising women offenders. The preponderance of women who are identified as offenders in domestic violence cases do not use violence to gain power and control in the relationship and are not likely to be the primary aggressor. Rather, the overwhelming majority of women who are identified by the criminal justice system as domestic violence offenders used violence to fight back to protect themselves and their children. Unlike men who are abusers, women in these situations are likely to readily admit the use of violence and do not engage in the denial and minimization seen in men who use violence to gain power and control (WCADV, 2001; Dasgupta, 2001).

## IMPLEMENTATION STRATEGIES

A significant number of women who are supervised by community corrections are or have been victims of domestic violence. Thus, community corrections professionals can fulfill a crucial function in promoting victim safety and autonomy by screening women offenders for domestic violence and providing support and assistance for identified victims (Bloom, Owen, and Covington, 2003) while simultaneously holding them accountable for the crime for which they were convicted.

- Conduct screening for domestic violence in separate sessions out of the line of sight and hearing of others.
- Before conducting domestic violence screening with women offenders, community corrections professionals should inform them of the extent and limits of confidentiality (see guideline 29).
- Create a safe environment for domestic violence victims to disclose if they choose. Consider displaying domestic violence posters and have local domestic violence program brochures available.
- If women offenders are not fluent in English or are deaf or hard of hearing, by Federal law, community corrections professionals must arrange for translators or interpreters who are neither friends nor relatives (including children) of the women.
- Many women who are victims of domestic violence will not volunteer any information but will discuss it if asked direct questions in a nonjudgmental way. The following questions, when answered affirmatively, may be used for screening for domestic violence. Begin by saying, "Violence is common in many women's lives, and I ask about it routinely. Does your partner...
  - Constantly criticize you and your abilities as a spouse or partner, parent, or employee?
  - Humiliate or embarrass you in front of other people?
  - Behave in an overprotective manner or become extremely jealous?
  - Threaten to hurt you, your children, pets, family members, friends or himself?
  - Get angry suddenly or lose his temper?
  - Destroy personal property or throw things around?
  - Deny you access to family assets like bank accounts, credit cards, or the car, or control all finances and force you to account for what you spend?
  - Withhold medication or deny you access to health care?
  - Threaten to reveal your HIV status?
  - Force you to work in jobs not of your choosing?

- Use intimidation or manipulation to control you or your children?
  - Hit, punch, slap, kick, shove, strangle or bite you?
  - Deny you access to your immigration documents?
  - Prevent you from going where you want, when you want, and with whomever you want?
  - Make you have sex when you don't want to or do things sexually that you don't want to do?
  - Control your expression of gender identity or sexual orientation?
  - Threaten to "out" you if you are lesbian, gay, bisexual, transgender, or transsexual?" (*NYSCADV, 2004*)
- Community corrections professionals who supervise women for domestic violence offenses or men who state they are victims of domestic violence may need to conduct additional evaluation to distinguish between victims and offenders. Those who are victims of domestic violence are likely to:
    - Feel ashamed of being victimized.
    - Blame themselves.
    - Feel confused.
    - Express remorse for responsive and self-defensive violence.
    - Fear her partner.
    - Protect her partner.
    - Describe how life has narrowed during the relationship.
    - Have tried unsuccessfully to leave or repair the relationship. (*NYS OPDV, 2001*)
- When victims of domestic violence are identified, apply guidelines 25, 28, and 30 including providing information on locally available services, conducting preliminary safety planning, describing the court system and the process of filing petitions, and discussing the process for obtaining orders of protection (*NYS PDVIP, 2003*).
  - Request modifications of the female offender's conditions of probation or parole if they may negatively affect her safety (e.g., curfew, electronic monitoring, travel permits, and residency reporting).
  - Community corrections professionals should be aware of and avoid complicity with abusers who are not under supervision but who may attempt to become an ally of community corrections staff to maintain their power and control over the victim. Do not use the victim's batterer as a collateral contact as this may unintentionally reinforce and validate his power and control over her (*NYS PDVIP, 2004*). Investigate any allegations of violations with a mindset of avoiding complicity with an abuser and avoid taking any actions that may affect the safety of the victim.
  - If the female offender under supervision is identified as a victim of domestic violence, do not mandate her to participate in a batterer program or other domestic violence programs.
  - Refer the female offender/victim to programs that are designed for women and are voluntary and supportive in nature. Make sure that women understand that voluntary does not imply these are required for her.
  - In situations where abused women and their abusers are both being supervised by community corrections, maintain a heightened level of confidentiality and safety protocols within the community corrections agency. Apply confidentiality standards as described in guideline 29. However, intra-agency teamwork and discussion of a case with others who may also be interacting with the couple can enhance needed consistency in responding to both victims and offenders.

**GUIDELINE 34:**

***Community corrections professionals are cognizant of the risks to children and others living with an abuser, report suspected abuse or neglect as mandated, and share appropriate information about the offender's behavior to assist in decision-making about the safety of the victim and others living with domestic violence.***

**RATIONALE**

Intimate partner violence and child abuse/ neglect are interrelated components of an overarching pattern of control and violence within a family (including nonmarried cohabiting couples). These forms of violence are said to be so close that “every risk and dislocation that a battered woman experiences is one that her children also endure” (Schechter and Edelson, 2000, p. 3). Children living with an abuser consistently show more cognitive disorders, aggressive and antisocial behaviors, depression, anxiety, and other health and adjustment problems. Also, children were found to be 2.5 times more likely to lack basic social skills (e.g., conflict resolution, peer interactions) and more than a quarter of them had severe psychological problems (i.e., reaching a clinical level) (Wolfe et al., 1985). Although the precise cumulative effect of these problems is unknown, it is suggested that children of abusers commit more criminal acts, have more school problems, and are more likely to use violence to resolve conflicts (see Flowers, 2000; Schechter and Edelson, 2000).

Community corrections officers should understand the role children may play in domestic violence. Children may be both a target and a tool of the abuser. In the first instance, abusers may specifically assault and/or abuse and neglect their or their intimate partner's children. The overlap between domestic violence and child abuse has consistently been found. The majority of abusers also physically or sexually abuse their children. While the abusers' actions may constitute the all too familiar “child abuse” commonly seen by community corrections officers, the abusers' intentions may be to punish their intimate partners or force them to conform to their demands to remain with them or abide by their dictates. There is also a growing recognition that the witnessing of domestic violence by children may have a profound detrimental impact on them, depending upon their age, the nature and extent of the abuse, and the absence or presence of strong nurturing counter forces, often supplied by the nonabusive parent.

In the second instance, abusers may manipulate their children or their children's status to threaten or distress their intimate partners. They may, for example, withhold child support making it more difficult for their intimate partner to manage without them. Despite a prior history of neglect or indifference, they may demand custody or visitation to tie their victims closer to them, even if their victims have legally separated or divorced their abusers. They may threaten to “inform” on their partners' alleged deficiencies as parents, or their depression or drug use (often caused by the abuse) to child welfare officials so that their partners may lose custody even though they, the abusers, may be responsible for any harm to the children.

The latter threat, even if baseless, has proven effective, as traditionally, child welfare agencies have blamed mothers for child abuse perpetrated by their partners. In a major victory for battered women the Federal courts have struck down a pervasive New York child welfare practice of charging abused women with failure to protect their children by “engaging in domestic violence” when, in fact, the women were victims of their partners' abuse. In *Nicholson v. Scoppetta*, (2002 WL 4498452 (E.D.NYS 2002)), the court found that the child welfare agency “infers from the fact that a woman has been beaten and humiliated that she permitted or encouraged her own

mistreatment. As a matter of policy and practice, (child welfare) presumes that she is not a fit parent and that she is not capable of raising her children in a safe and appropriate manner because of actions which are not her own...”

For these reasons, it is important that community corrections officers ascertain the presence of children in each case and develop a plan of action to ensure their well being. Generally, the core element of such a plan will revolve around the protection and well being of their mother, the victim of the domestic violence. The plan, however, may include supporting the victim and working with child welfare officials and the family or custody courts, if they are or become involved, to ensure appropriate recognition of the dynamics of domestic violence underlying the case. (A. Klein, personal communication, May 24, 2004.)

## IMPLEMENTATION STRATEGIES

Increasingly, American households contain multigenerational families. In 2000, nearly four percent of all households—or about 3.9 million households—contained three or more generations living together. Most frequently, these were composed of the householder, the householder’s children, and grandchildren. However, about one-third of the multigenerational households included the householder, the householder’s parents or parents-in-law, and the householder’s children. Other configurations, including four-generation households and those in which nieces, nephews, aunts, uncles, and other relatives live, occur less frequently but are found occasionally. Multigenerational households are most likely to be found in areas with large immigrant populations, where there is a shortage of housing, and where housing costs are very high (U.S. Census Bureau, 2001). Adult household members who are disabled or elderly also may be at risk when domestic violence occurs in the home. Community corrections professionals may have an obligation to recognize and report suspected abuse of these vulnerable adults.

By increasing a domestic violence victim’s safety community corrections officers can increase the safety of the children and other family members and decrease the potential for future problems for these individuals. The abuser is responsible for creating the abusive situation and should be held accountable. Community corrections professionals can affect the safety of domestic violence victims and their children and vulnerable family members through the following practices:

- Determine if children or other family members are involved in the relationships of domestic violence offenders.
- Determine the relationship of the child(ren) and others to the domestic violence offenders. Research has shown the risk of lethality is greater in homes where stepchildren are present (Campbell et. al., 2003).
- Determine if children or other family members are present during violent events, and if they express distress due to the violence.
- Ask if children or others are victimized directly and observe for indicators that children and vulnerable adults may be direct victims of abuse or neglect.
- Ask the offender and victim questions regarding parenting practices (i.e., disciplinary strategies).
- Explain the obligation community corrections professionals have to report child neglect or abuse or elder abuse, if suspected, and adhere to responsibilities for reporting abuse or neglect. (Officers need to check jurisdictional requirements for their status as mandated reporters).
- Maintain effective communication with child and adult protective services workers. Report and follow-up with cases to protective services workers when appropriate.
- Discuss with the victim safety plans for her children.

- Share appropriate information about the offenders and abuse of intimate partners with protective services, and continue collaboration as cases demand.
- Request, monitor, and enforce conditions of supervision that can increase the safety of adults and children including no-contact orders, firearms restrictions, abstinence from drugs and alcohol, and family financial support.

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*Attachment 9-A***AN OVERVIEW OF WORKING WITH WOMEN WHO ARE ABUSED  
THROUGHOUT THE COMMUNITY CORRECTIONS PROCESS****General Guidelines:**

- Advise the woman who is abused that her participation is voluntary—she can begin or cease participation at any time.
- Inform the woman who is abused of your agency's confidentiality policies at your first contact, and again as necessary.
- Understand that a woman who is abused is constantly evaluating her risks, and from day to day her needs and safety concerns may vary.
- Establish a working relationship with your local domestic violence program - it will make your work easier.

**Contact With Women Who Are Abused and Concerns When Setting Up the Case:**

- Safekeeping of contact information for a woman who is abused is always a priority.
- Keep the case file out of sight when the offender is in the office, or, if possible, keep the contact information for the woman who is abused in a separate file.
- Know and follow your agency's policy regarding use of information about the woman who is abused.
- Don't initiate contact with the woman who is abused while the offender is present.

**Contact With Women Who Are Abused and Concerns During Supervision:**

- Ensure that the woman who is abused has contact information for the local domestic violence program, if it is safe for her to have it.
- Assist the woman who is abused in identifying her safety concerns and developing a preliminary safety planning.
- Ask the woman who is abused to identify if, when, and how to contact her. Provide for her safety and convenience.
- Explain the terms of the conditions of supervision, your role as a community corrections staff, and any relevant agency policies.

**Be Prepared to Discuss (when relevant):**

- The limitations of batterers' programs—they are only a tool of accountability and cannot guarantee that the offender's behavior will change.
- Safety issues that may impact community corrections professionals and the woman who is abused during home visits, fieldwork or collateral contacts.
- Information that a woman who is abused can provide without being identified as the source (as well as information that would put her at increased risk).
- Order(s) of Protection and violations thereof.
- Probationer or parolee obligations, such as: visitation, child support, restitution, and conditions of supervision.

**Working with Women Who Are Abused Who Are Members of Marginalized Communities:**

- Be aware of what resources are available.
- Know that just as domestic violence is a result of sexism, many victims of domestic violence experience other oppressions that compound their victimization. These may create additional barriers to their ability to secure appropriate services.
- Recognize each woman's right to identify with the population(s) she chooses, and that the identity might have different meanings for each woman.
- Allow each woman who is abused to give her own meaning to her identity and her experience. Try not to extend that meaning to all the members of the same group.

**Working with Women Who Are Abused When They are on Probation or Parole:**

- Create a safe environment for a woman who is abused to disclose if she chooses.
- Be aware of conditions of supervision that may put her in increased danger.
- Recognize that use of a batterer as a collateral contact may give them more power and control over a woman who is abused and who is a probationer or parolee.

**Working with Women Who Are Abused When Closing a Case:**

- Agency policy should require that you notify a woman who is abused at least one month before the probationer or parolee is discharged from supervision.
- Allow the woman who is abused to identify her concerns, and provide appropriate referrals for her.

**Enforcement/Accountability that Includes Input from the Woman Who is Abused:**

- Allow the woman who is abused to decide if she wishes to provide information.
- Explain, realistically, what may happen with the information that she provides.
- Describe, realistically, how violations are handled and what sanctions may occur.
- Use your relationship with local domestic violence advocates to create a mechanism for information sharing that keeps the safety of the woman who is abused a priority.
- Whenever possible, use information from sources other than the woman who is abused, to hold the offender accountable.

Adapted from *Working with Victims of Domestic Violence: General Guidelines for Probation Officers*, NYSCADV, 2003.



# CHAPTER TEN

CHAPTER TEN

## Guidelines for Batterer Intervention Programs

### **GUIDELINE 35:**

*Batterer intervention programs are used in conjunction with community supervision protocols. The primary focus of a batterer intervention program is offender accountability; any rehabilitative benefits for offenders are secondary. The goal is stopping the violence and abuse.*

### **GUIDELINE 36:**

*Batterer intervention programs conform to appropriate standards that have been developed in partnership with domestic violence advocacy organizations.*

### **GUIDELINE 37:**

*Community corrections professionals discuss with victims the purpose and limitations of batterer programs.*

### **GUIDELINE 38:**

*There is regular communication between batterer intervention program personnel and community corrections officers regarding attendance and participation of offenders in these programs. Community corrections professionals respond immediately when offenders fail to comply with court-ordered program attendance and participation.*

**GUIDELINE 39:**

*Where possible, batterer intervention programs accommodate offenders with special needs or diverse cultural backgrounds.*

**GUIDELINE 40:**

*Female domestic violence offenders do not attend batterer intervention program groups with male offenders.*

**GUIDELINE 41:**

*Batterer intervention programs have protocols for assessing for and referring offenders with substance abuse or mental health problems to appropriate treatment programs, when indicated.*

The language used by criminal justice professionals working with domestic violence cases has the potential to allow offenders and victims to misperceive the seriousness and underlying motivation of such crimes. Programs for batterers are most commonly referred to as batterer intervention programs, but they also may be called batterer education or counseling programs. These programs should not be based on or called *treatment* or *anger management*. It is vital that all those with a role in directing offenders to these programs use appropriate terms to describe them, including prosecutors, defense attorneys, judges, paroling authorities, and community corrections officers.

Treatment implies an illness or disorder, and anger management implies that the cause of domestic violence is a loss of control or impulsive behavior. Neither is correct. Treatment may imply to the offender that he is the victim of an illness or disorder that is beyond his personal control. Treatment often conjures images of traditional mental health approaches, including individual counseling and methods focusing on gaining personal insight and improved interpersonal relationships. However, with domestic violence offenders, the issue is criminal abuse of intimate partners, and the primary goal of intervention should be ending the violence and protecting victims (Adams, 1995; Klein, 1994). Although offenders may be angry when they abuse their intimate partners, and some may be generally violent, they typically do not lose control of their anger and behave violently toward others in their environment; indeed, the majority of them use targeted expressions of anger to dominate and control their partners. Thus, referring offenders to programs that focus on anger management without addressing other important issues involved in intimate partner violence is inappropriate. Programs should focus on offender accountability with the goal of reducing abuse.

**GUIDELINE 35:**

*Batterer intervention programs are used in conjunction with community supervision protocols. The primary focus of a batterer intervention program is offender accountability; any rehabilitative benefits for offenders are secondary. The goal is stopping the violence and abuse.*

**RATIONALE**

Effectively changing domestic violence offenders' abusive and violent behavior requires multiple resources employing a variety of modalities. Behavior change requires consistent, supportive, and cooperative intervention strategies by community corrections, batterer intervention programs, and courts or paroling authorities. As Healey and Smith (1998, p. 9) state:

*The combined impact of arrest, incarceration, adjudication, and probation supervision may send a stronger message to the batterer about the seriousness of his behavior than what is taught in an intervention program. Intervention programs rely on criminal justice support to add force to their work. That support needs to be coordinated systemwide. Coordination is important because victims can be endangered by any breakdown in communication, failure of training, or lack of follow through by agency representatives.*

Batterer intervention programs are group counseling and educational programs designed to intervene in a very specific way to address the patterns of violent and abusive behavior and issues of power and control exerted by domestic violence offenders. Domestic violence is a behavioral choice that generally nets abusers more benefits than costs. Domestic violence offenders have learned through experience that violent and abusive behavior toward their partners rewards them based on their current beliefs in male privilege, power, and control. Through the power of the criminal justice system to intervene when they criminally abuse others, offenders must learn a different lesson that includes the rights of others, changing beliefs about male privilege and personal responsibility, and new skills for interpersonal relationships.

Batterer programs may help some domestic violence offenders change their behavior, and they may be helpful in providing ongoing support, supervision, and monitoring to maintain behavior changes if offenders can continue their involvement with the program beyond the program's set number of sessions. Further, batterer programs for which enrollment and participation are strictly enforced may help safeguard victims by providing an early indicator of noncompliance and higher risk. Higher risk offenders, such as those with substance abuse problems and mental disorders, are more likely to fail to enroll, drop out, or be terminated from the program for not complying with program rules. The effectiveness of this as an indicator of risk and early warning for victims depends upon effective collaboration between the community corrections program and the batterer program (see Davis, Taylor, & Maxwell, 2000; Dunford, 2000; Ford & Regoli, 1993; Palmer, Brown, & Barrera, 1992).

Batterer programs should not be viewed as a "cure" for domestic violence offenders. Indeed, the primary purpose of batterer programs is not the rehabilitation of the offender but supporting offender accountability. Batterer programs are part of the larger system of interventions that may be brought to bear on an offender to hold them accountable and change their violent behavior. Essentially, community corrections officers have an important role to ensure that batterers comply with supervision conditions and complete all required batterer intervention meetings. Babcock & Steiner (1999) mentioned in their evaluation of the Seattle Community Coordinated Domestic Violence program that many offenders only completed the required batterer intervention program following probation officers filing a technical violation and in some cases revocation for failing to attend. *Research has yet to provide a consistent finding regarding the effectiveness of batterer intervention programs.* Some findings point to a reduction in violence and improvement in victim well being; however, the programs do not seem to help all participants, and some offenders may resort to less detectably violent, but still coercive, means of control over their partners.

## IMPLEMENTATION STRATEGIES

Several practice strategies can be implemented to promote supervision and batterer intervention effectiveness.

- **Courts and community corrections professionals must ensure that offenders enroll in, attend, and participate in, a batterers' program.** Community supervision and batterer intervention programs are complementary strategies. They should not be carried out without dedicated collaboration. Batterer intervention

programs augment probation and parole supervision, provide another means of holding offenders accountable, and potentially bolster behavior change (Bennett & Williams, 2001).

- **Probation and parole officers should incorporate the offender's experience in a group batterer program into their supervision strategies.** Officers should, for example, ask offenders to describe what they are learning in the program and how they are applying it in their lives. They might ask offenders how they would respond to situations in which they previously might have become violent by using skills learned in the program. However, officers should take care to assess the validity of the offender's comments to try to avoid offender manipulation by saying the "right" thing to officers. Officers also can probe any issues that may indicate a problem in the operation of the batterer program and investigate further or communicate concerns to the appropriate person.
- **Supervision conditions should be closely monitored and enforced—including participation in a batterer program.** A reality of batterer programs is that they often are used in plea bargaining as a way for offenders to reduce their sentences. While this serves a justice system purpose of clearing court calendars more quickly, it may pose additional risks for victims. Swift responses through sanctions and revocations when batterers do not comply can remedy plea bargains if a more restrictive sanction is needed for the victim's safety.
- **Mixing voluntary and mandated clients in the same batterer groups is not recommended.** Self-referred participants in batterer programs may enroll for several reasons. Perpetrators could enroll in programs due to external pressures (e.g., partner, other family members, friends), as an attempt to achieve a less punitive sentence when going to court, or some offenders may recognize a need to change their violent behavior. Batterer programs and community corrections agencies that refer offenders to them should carefully consider some of the issues that may be inherent in voluntary participation in batterer programs. Mental health providers have typically relied upon their patients' motivation for change and provided them with confidentiality to encourage their disclosure of personal issues. However, for batterers, this approach may not be beneficial. There is no evidence that domestic violence is caused by mental health problems; rather, it is a behavioral choice. Thus, typical mental health approaches and safeguards, such as voluntary participation and confidentiality, may not be suitable. If afforded confidentiality, domestic violence perpetrators may not encounter the consequences that will hold them accountable and encourage them to change their behaviors (Adams, 1995). Men who voluntarily participate in batterers programs have been found twice as likely to drop out within the first three months and 10 percent more likely to reassault their partners (Gondolf, 1997). At issue are the power and control exercised by offenders and the need for them to be held accountable. Having both voluntary and mandated clients in the same group may alter the group dynamics that are important in the intervention process. Voluntary participants have the option of dropping out when they wish without consequences, and they may elect not to participate or fully disclose issues as is expected of mandated participants. Program resources might be better used by perpetrators who can be compelled by the courts to attend and participate.

If no batterer intervention program is available in a jurisdiction, community corrections may need to consider alternative ways of providing offenders with skill and knowledge development to change their behavior and cognitive processes (i.e., sexism) that result in domestic violence. Community corrections professionals also might seek training in batterer intervention. It is generally considered less desirable for community corrections professionals to actually facilitate batterer programs. However, in some jurisdictions this may be the only resource available. Group programs are preferable because of the often positive effect of group dynamics. However, if there are not enough offenders to form a group, community corrections professionals may want to introduce program content during individual contacts with offenders.

**GUIDELINE 36:**

***Batterer intervention programs conform to appropriate standards that have been developed in partnership with domestic violence advocacy organizations.***

**RATIONALE**

Standards assist in promoting program uniformity, quality, and consistency. If programs are certified in a State or locality, community corrections officers should refer offenders only to the certified programs. Following the work of Dankwort and Austin (1999), this project collected and reviewed batterer program standards in June of 2005. In 1997, 29 States (including the District of Columbia) had adopted batterer program standards, and standards were in development or draft stages in 19 other States (Dankwort & Austin, 1999). By 2005, 38 states had adopted batterer program standards (including the District of Columbia) and three other states had drafted standards that were not yet approved. No standards were found for the remaining 10 states.

**IMPLEMENTATION STRATEGY**

A variety of program approaches have developed under the rubric of batterer intervention programs. Community corrections professionals should understand the array of programs in operation and carefully and responsibly select and refer offenders to programs that are most likely to function in accordance with the goals of victim safety, offender accountability, and offender behavior change.

Batterer program standards were reviewed for 37 States and the District of Columbia. These represent the major components of batterer program standards and indicate those that are most frequently included by States. This information is useful to community corrections in assessing or helping to develop their own state's standards as well as considering individual programs to which offenders may be referred. Exhibit 10-A presents this information in a checklist format that can be used as a tool for this assessment.

Exhibit 10-A

**SUMMARY OF STATE STANDARDS FOR BATTERER PROGRAMS**

| Number of States                                                         | Percentage of States <sup>1</sup> | Standards                                                                                   | My State's Standards | Program Standards |
|--------------------------------------------------------------------------|-----------------------------------|---------------------------------------------------------------------------------------------|----------------------|-------------------|
| <b>Authorization for Standards</b>                                       |                                   |                                                                                             |                      |                   |
| 21                                                                       | 55                                | Mandatory standards with legislation                                                        |                      |                   |
| 4                                                                        | 11                                | Voluntary standards                                                                         |                      |                   |
| 1                                                                        | 3                                 | Mandatory standards without legislation                                                     |                      |                   |
| 12                                                                       | 32                                | Information not provided                                                                    |                      |                   |
| <b>Program Approach/Orientation</b>                                      |                                   |                                                                                             |                      |                   |
| 28                                                                       | 74                                | Psychoeducational                                                                           |                      |                   |
| 28                                                                       | 74                                | Cognitive-behavioral                                                                        |                      |                   |
| 3                                                                        | 8                                 | Profeminist                                                                                 |                      |                   |
| <b>Program Priorities</b>                                                |                                   |                                                                                             |                      |                   |
| 35                                                                       | 92                                | Hold batterer accountable                                                                   |                      |                   |
| 32                                                                       | 84                                | Victim safety                                                                               |                      |                   |
| 28                                                                       | 74                                | Address substance abuse                                                                     |                      |                   |
| <b>Program Philosophy</b>                                                |                                   |                                                                                             |                      |                   |
| 35                                                                       | 92                                | Violence is attributed to the perpetrator                                                   |                      |                   |
| <b>Acknowledged Limitations of Programs</b>                              |                                   |                                                                                             |                      |                   |
| 21                                                                       | 55                                | May not stop the violence                                                                   |                      |                   |
| 5                                                                        | 13                                | Programs not intended to salvage relationships                                              |                      |                   |
| <b>Program Prohibitions</b>                                              |                                   |                                                                                             |                      |                   |
| 12                                                                       | 32                                | Couples therapy is not allowed                                                              |                      |                   |
| 18                                                                       | 47                                | Couples therapy is allowed but limited or qualified                                         |                      |                   |
| <b>Issues to be Addressed in the Program-Client Contract<sup>2</sup></b> |                                   |                                                                                             |                      |                   |
| 35                                                                       | 92                                | Confidentiality                                                                             |                      |                   |
| 27                                                                       | 71                                | Program attendance and participation                                                        |                      |                   |
| 24                                                                       | 63                                | Nonviolent behavior during program participation                                            |                      |                   |
| 24                                                                       | 63                                | Fees and financial obligations of participants                                              |                      |                   |
| 21                                                                       | 55                                | Alcohol and other drug use                                                                  |                      |                   |
| 8                                                                        | 21                                | Restrictions against weapons                                                                |                      |                   |
| 1                                                                        | 3                                 | Being on time                                                                               |                      |                   |
| <b>Areas to be Assessed During Intake</b>                                |                                   |                                                                                             |                      |                   |
| 34                                                                       | 89                                | History of violence                                                                         |                      |                   |
| 34                                                                       | 89                                | Mental health and substance abuse                                                           |                      |                   |
| 31                                                                       | 82                                | Risk and potential lethality                                                                |                      |                   |
| 30                                                                       | 79                                | Appropriateness for program                                                                 |                      |                   |
| <b>Program Administration Requirements</b>                               |                                   |                                                                                             |                      |                   |
| 33                                                                       | 87                                | Programs should or must work with area domestic violence services and shelters              |                      |                   |
| 31                                                                       | 82                                | Programs should or must participate in coordinated community responses to domestic violence |                      |                   |

<sup>1</sup> Percentages are based on a total of 38 State standards.

<sup>2</sup> See examples of participant contracts in attachments 10-B and 10-C.

| Number of States                                  | Percentage of States <sup>1</sup> | Standards                                                                                      | My State's Standards | Program Standards |
|---------------------------------------------------|-----------------------------------|------------------------------------------------------------------------------------------------|----------------------|-------------------|
| 23                                                | 61                                | Programs are evaluated or monitored for compliance                                             |                      |                   |
| 20                                                | 53                                | Programs should or must help educate the community/public                                      |                      |                   |
| 18                                                | 47                                | Programs must submit evaluations, applications and/or renewals                                 |                      |                   |
| 6                                                 | 16                                | Programs should or must exist where victim services and support are available                  |                      |                   |
| 6                                                 | 16                                | Programs should or must not compete with victims services for funding                          |                      |                   |
| <b>Program Procedures</b>                         |                                   |                                                                                                |                      |                   |
| 36                                                | 95                                | Batterers agree to limited confidentiality <sup>3</sup>                                        |                      |                   |
| 30                                                | 79                                | Batterers pay program fees                                                                     |                      |                   |
| 19                                                | 50                                | Program fees are on sliding scale                                                              |                      |                   |
| 19                                                | 50                                | Provisions are made for indigents for program fees                                             |                      |                   |
| 32                                                | 84                                | Victim contacts include referrals to victim services and advocacy                              |                      |                   |
| 31                                                | 82                                | Victims are warned of imminent danger                                                          |                      |                   |
| 29                                                | 76                                | Victims are provided information and resources                                                 |                      |                   |
| 28                                                | 74                                | Programs provide victims with information about the batterer's status in the program           |                      |                   |
| <b>Confidentiality</b>                            |                                   |                                                                                                |                      |                   |
| 11                                                | 29                                | Batterer-therapist confidentiality (except with release or exempt by law)                      |                      |                   |
| 15                                                | 39                                | Group confidentiality                                                                          |                      |                   |
| <b>Program Delivery</b>                           |                                   |                                                                                                |                      |                   |
| 36                                                | 95                                | A minimum treatment duration is specified (range 12-52 weeks, average 24 weeks, mode 26 weeks) |                      |                   |
| 28                                                | 74                                | Groups are gender specific                                                                     |                      |                   |
| 26                                                | 68                                | A maximum group size is specified (range 10-24, average 18, mode 15)                           |                      |                   |
| <b>Program Content</b>                            |                                   |                                                                                                |                      |                   |
| 35                                                | 92                                | Taking responsibility for violence                                                             |                      |                   |
| 32                                                | 84                                | Attitudes and beliefs that support violence                                                    |                      |                   |
| 32                                                | 84                                | Socio-cultural basis for violence                                                              |                      |                   |
| 31                                                | 82                                | Power and control issues                                                                       |                      |                   |
| 29                                                | 76                                | Types of abuse                                                                                 |                      |                   |
| 29                                                | 76                                | Effects of violence                                                                            |                      |                   |
| 19                                                | 50                                | Ethnic/cultural diversity                                                                      |                      |                   |
| <b>Program Staff</b>                              |                                   |                                                                                                |                      |                   |
| 36                                                | 95                                | Domestic violence training/experience required or recommended                                  |                      |                   |
| 26                                                | 68                                | Continuing education required                                                                  |                      |                   |
| 23                                                | 61                                | Relevant degree or license required or recommended                                             |                      |                   |
| 16                                                | 42                                | Male and female team facilitators required or recommended                                      |                      |                   |
| 27                                                | 71                                | Violence-free lifestyle                                                                        |                      |                   |
| 20                                                | 53                                | No alcohol/drug abuse                                                                          |                      |                   |
| 15                                                | 39                                | No sexism, racism                                                                              |                      |                   |
| 18                                                | 47                                | No criminal background or current criminal activity                                            |                      |                   |
| <b>Criteria for Termination for Noncompliance</b> |                                   |                                                                                                |                      |                   |
| 26                                                | 68                                | Failure to attend regularly                                                                    |                      |                   |
| 26                                                | 68                                | Failure to participate at an acceptable level                                                  |                      |                   |
| 25                                                | 66                                | Continued use of violence                                                                      |                      |                   |

<sup>3</sup> See sample release of information form in attachment 10-D.

| Number of States                                    | Percentage of States <sup>1</sup> | Standards                                           | My State's Standards | Program Standards |
|-----------------------------------------------------|-----------------------------------|-----------------------------------------------------|----------------------|-------------------|
| 17                                                  | 45                                | Nonpayment of fees                                  |                      |                   |
| <b>Criteria for Satisfactory Program Completion</b> |                                   |                                                     |                      |                   |
| 25                                                  | 66                                | Satisfactory participation in program               |                      |                   |
| 15                                                  | 39                                | Payment of fees                                     |                      |                   |
| 11                                                  | 29                                | Client accepts responsibility for behavior          |                      |                   |
| 11                                                  | 29                                | Client is violence-free (some specify a time frame) |                      |                   |

Programs should have clearly delineated behavioral criteria for termination from programs and for successful completion. These should be clear and agreed upon by all those involved in the sentencing and supervision of offenders. It is especially vital that judges agree to uphold program standards so that unsuccessful participants are not allowed to recycle repeatedly through groups or move from one group to the next.

Many offenders referred to batterer programs do not complete them. Daly, Power, and Gondolf (2000) found several factors that predict better attendance of offenders at batterer programs. These included being court ordered to the program, having higher education levels, being employed, and not having alcohol problems. Feder and Dugan (2002, p. 371) found that about one-third of batterers mandated to complete a batterer intervention program failed to complete the required sessions, and “100% of these men were violated for one or more conditions of probation.” While they found similar stake-in-conformity variables associated with less abuse and greater likelihood to finish treatment (e.g., older, employed) as did Daly et al. (2001), they also found that offenders attending more sessions committed significantly fewer incidences of reabuse (see also, Davis, Taylor, & Maxwell, 2000; Dunford, 2000; Ford & Regoli, 1993; Palmer, Brown, & Barrera, 1992).

There is a continuum of possible outcomes for offenders who are referred to batterer intervention programs ranging from offenders who are referred but never enroll in the program to those who complete satisfactorily and make behavior changes that result in no further violence toward their partners. Between these extremes is an array of possible outcomes as depicted in exhibit 10-B.

Offenders may be discharged from batterer intervention programs for satisfactory program completion or for unsatisfactory participation or violation of rules. Many programs include in their rules that offenders can be dismissed from the group for not cooperating, not paying fees, not attending regularly, failing to maintain sobriety, violating important program rules (e.g., being disruptive or aggressive), and for having their parole or probation revoked (Healey & Smith, 1998), as well as ongoing violence and abuse against partners.

Exhibit 10-B

### OUTCOMES FOR BATTERER INTERVENTION PROGRAMS

| Never enrolled                                                                   | Complete intake only                                                                                                              | Terminated for unsatisfactory participation                                                                                                                                                                                                  | Completed with Technical Compliance                                                                                                                                                                                      | Completed with positive behavior changes*                                                                                                                                                                                                                           |
|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>No contact with program at all</li> </ul> | <ul style="list-style-type: none"> <li>Initial contact with program for intake, but no participation in group meetings</li> </ul> | <ul style="list-style-type: none"> <li>Uncooperative</li> <li>Nonpayment of fees</li> <li>Poor attendance</li> <li>Drinking/drug use</li> <li>Disruptive/ aggressive</li> <li>New abuse</li> <li>Violation of probation or parole</li> </ul> | <ul style="list-style-type: none"> <li>Adequate attendance</li> <li>Fees paid</li> <li>Adequate participation</li> <li>Sobriety maintained</li> <li>No violence</li> <li>Remained under community supervision</li> </ul> | <ul style="list-style-type: none"> <li>Complete cessation of violence and threats as reported by victim</li> <li>End of manipulative behavior</li> <li>Establish equal partnerships with intimates</li> <li>Take social action against domestic violence</li> </ul> |

*\*An extremely small percent of all outcomes.*

Gondolf (1995b) developed and tested clinical criteria for successful completion of batterer programs that are shown in exhibit 10-C. Gondolf’s research found that these discharge criteria suggested “respectable sensitivity but not specificity in predicting abusive behavior after the program” (p. 6). Another example of criteria for program completion used by the ABY and Associates program in King County, Washington, may be found in attachment 10-A at the end of this chapter.

Exhibit 10-C

### CLINICAL CRITERIA FOR SUCCESSFUL COMPLETION OF BATTERER PROGRAMS

- Attendance:** arrives at group session on time; socializes or lingers afterward; contacts program in advance about absence; has legitimate excuse for absences.
- Nonviolence:** has not recently physically abused partner, children, or others; no apparent threats, intimidation, or manipulation.
- Sobriety:** attends meeting sober; not high or drunk; no apparent abuse of alcohol or drugs during week; complying to ordered or referred drug and alcohol treatment.
- Acceptance:** admits that violence and abuse exist; not minimizing, blaming, or excusing the problem; realizes responsibility for abuse; identifies contribution to problems.
- Using techniques:** takes conscious steps to avoid violence; refers to time-outs, self-talk, conflict resolution skills, etc.; does homework assignment or recommendations.
- Help-seeking:** seeks information about alternatives; discusses options with others in the group; calls other participants for help; open to referrals and future support.
- Process conscious:** lets others speak one at a time; acknowledges others’ contributions; asks questions of others without interrogating; heeds direction of counselors.
- Actively engaged:** attentive body language and non-verbal response; maintains eye contact; speaks with feeling; follows topic of discussion in comments.
- Self-disclosure:** reveals struggles, feelings, fears, and self-doubts: not withholding or evading issues; not sarcastic or defensive.
- Sensitive language:** respectful of partner and women in general; non-sexist language and no pejorative slang; checks others who use sexist language.

*(Gondolf, 1995b, pp. 9-10)*

Community supervision professionals must work on employment and substance abuse issues for domestic violence offenders. Proactive strategies to ensure program involvement may be necessary for those who are unemployed or unable to work. In some communities, community service work may be substituted for payment to participate in batterer programs (e.g., five hours credited at \$5.00 per hour), others have received grants to subsidize programs, and some programs accept a limited number of offenders without charge (See attachment E for a sample form, Criteria for Special Fee Consideration, used in San Diego, California.) All possible avenues should be explored to prevent fees from being a justification for noncompliance with a batterer program. Supervising community corrections officers also should watch cases closely and be in close communication with victims to guard against offenders coercing their victims to pay for their intervention programs or depriving their families of necessities.

Batterer intervention programs should not be expected to make recommendations beyond their scope. Batterer program providers should have criteria for determining which offenders they can serve and either admitting them or excluding them from group participation. They also should have program rules and be empowered to discharge an offender who does not abide by these rules. On the other hand, it is not the province of the batterer program provider to determine how the offender should be supervised on probation or parole, and they should not be asked to make recommendations about level of supervision or conditions of supervision.

#### **GUIDELINE 37:**

***Community corrections professionals discuss with victims the purpose and limitations of batterer programs.***

#### **RATIONALE**

Recognizing the severity of domestic violence offenses, many jurisdictions mandate batterer intervention counseling in conjunction with other community sanctions. One commonly recognized drawback to batterer programs is the concern that such programs may actually encourage victims to return to or remain with their abusers (Hamberger & Hasting, 1993). As victims are told their partners will be required to participate in an intervention program—which they often hear as “treatment,” implying rehabilitation or “help” for the offender—they are encouraged to return to or remain in the relationship.

It might be that batterer intervention programs, at times, give victims a false sense of security. However, this is not to say that batterer programs may not be effective, because they can be (Hanson & Wallace-Capretta, 2002); rather it is to highlight that these programs are not a cure-all for abusive relationships. Current research on the effectiveness of batterer programs yields mixed results. Palmer, Brown, and Barrera (1992) found that male abusers randomly assigned to either a batterer intervention program or to a control group (i.e., no program) performed significantly different in the community. Specifically, abusers completing the batterer program (about 70%) were less likely to reoffend. Ford and Regoli (1993) found less optimistic results when comparing groups of offenders either receiving batterer counseling or not, as reoffense rates were similar. Hanson and Wallace-Capretta (2002) found that there were few differences in rearrest rates among offenders placed in batterer programs with different philosophies (i.e., cognitive-behavioral, humanistic, pro-feminist, eclectic). Instead they found certain lifestyle characteristics, such as substance abuse, residential instability, and criminal record, as well as failure to complete a program, are related to recidivism. Davis, Taylor, and Maxwell (2000) found that offenders completing a 26-week batterer intervention program were less likely to reoffend than batterers in an eight-week program or community service.

Batterer intervention programs alone are not going to end domestic violence. However, community corrections officers should recognize the potential of the batterer program for dismantling ingrained patriarchal views that support intimate partner violence, and communicating with victims and offenders regarding expectations and goals for supervision.

## IMPLEMENTATION STRATEGIES

One of the central differences between supervising domestic violence offenders and nondomestic offenders is the importance of maintaining victim contact. Community corrections personnel should have ongoing mechanisms for assessing programs and victim well being, including interviews with victims and program evaluations. Community corrections officers should:

- Inform victims that batterer intervention programs cannot guarantee the offender’s violent behavior will change.
- Enforce conditions and hold offenders accountable to attend, appropriately participate, and complete batterer intervention programs.
- Utilize a system of positive (i.e., acknowledgements) and negative (i.e., sanctions) reinforcements to encourage program compliance.
- Inform both offenders and victims of the goals and expectations of the batterer intervention program.

Officers, offenders, and victims should understand that batterer intervention programs are not a panacea for domestic violence. Batterer programs can, however, be instrumental in providing some warning to victims and to community corrections personnel if an offender’s behavior in group indicates threats or increased risk of violence. Besides this safety goal, batterer programs have demonstrated optimistic results at diminishing abuse and criminal offenses in general, as well as prolonging the time until offending recurs. Through these programs, at least some offenders will begin to adjust their previously accepted thought patterns supporting abuse, which should result in altered behavior (i.e., reducing interpersonal violence).

### GUIDELINE 38:

***There is regular communication between batterer intervention program personnel and community corrections officers regarding attendance and participation of offenders in these programs. Community corrections professionals respond immediately when offenders fail to comply with court-ordered program attendance and participation.***

## RATIONALE

For batterer programs to be most effective and to inhibit offenders’ attempts to manipulate the system to their advantage, coordination and communication mechanisms must be incorporated. The principal players—batterer program providers, victim advocates, the judiciary, community corrections professionals—should build trusting relationships among themselves, understand each others’ viewpoints and restraints, and communicate effectively.

Recent research suggests the use of coordinated community responses to domestic violence, as reduced “criminal recidivism was associated with the cumulative effects of successful prosecution, probation monitoring, receiving a court order to counseling, attending counseling intake, and completion of counseling” (Murphy, Musser, & Maton, 1998, p. 263). Syers and Edelson (1992) analyzed the behavior of 358 male offenders at 6 and

12 month follow-up periods, and found little support for arrest-only to reduce reabuse behavior. However, they did find significant reductions in reoffending rates for those arrested and ordered to attend a batterer counseling program.

Murphy et al. (1998) found significantly reduced reoffending rates for offenders receiving a combined criminal justice system response. That is, for those offenders arrested, prosecuted, sentenced to counseling, and monitored by probation there was a reduced incidence of reabuse. These results should be accepted with some caution. Domestic violence behaviors, for the most part, are the manifestation of long-standing learned patriarchal attitudes generating controlling and violent behaviors that are difficult to change. Community corrections officers should remain vigilant when supervising domestic violence offenders, interact with victims and offenders, and enforce all supervision conditions.

## IMPLEMENTATION STRATEGIES

To ensure mutual, coordinated system efforts on behalf of victim safety, a memorandum of understanding (MOU) between batterer programs and the referring or oversight agency is recommended. The MOU may delineate:

- Expectations of the batterer program (e.g., number of sessions to be provided, size of groups, type of curriculum, compliance with batterer program standards).
- How victim contact should be handled by the batterer program, if done at all (e.g., frequency and content of contacts with victims, involvement of victim advocates).
- Intake of offenders (e.g., information to be received by the batterer program from the court or community corrections officer, time from referral to screening interview, and time to acceptance in program).
- Communication procedures between the batterer program and the court and community corrections agencies (e.g., frequency and content of reports on offender attendance in groups).
- How program monitoring will occur and the way any problems will be handled.

Regular and timely communication between batterer program providers and community corrections officers is extremely valuable. Community corrections professionals supervising the offender must know if he is attending group sessions. If any issues arise in group that the supervising officer should be aware of—especially anything that may affect victim safety—immediate communication is imperative. Many programs communicate regularly (e.g., weekly or monthly) by fax, e-mail, or telephone on the general attendance and participation of members, but program providers and community corrections officers should telephone each other if serious issues develop. Programs must have communication procedures in place between program personnel and victims and community corrections staff to ensure that such warnings are communicated. Batterer programs must immediately notify probation or parole professionals when an offender is not complying with the program, and community corrections personnel, judges, and paroling authorities must follow with swift and certain consequences. (Refer to guideline 22 in chapter 8 for implementation strategies for responding to noncompliance with court orders.)

**GUIDELINE 39:**

***Where possible, batterer intervention programs accommodate offenders with special needs or diverse cultural backgrounds.***

**RATIONALE**

Both the ways offenders perpetrate violence against their partners and the ways they respond to intervention are influenced by cultural factors such as socioeconomic status, racial or ethnic identity, country of origin, and sexual orientation. Therefore, it is essential that certain accommodations be made for several nontraditional, culturally distinct groups. Non-English speaking offenders, for example, will benefit little from intervention programs only available in English, and, similarly, homosexual offenders may not be able to identify with strategies designed for heterosexual offenders. This does not legitimate the violence or offer offenders a “cultural excuse” for perpetrating the violence. Rather, the intent is to identify the need for flexibility when designing programs and referring offenders to culturally and linguistically appropriate batterers programs.

**IMPLEMENTATION STRATEGIES**

It may be necessary to understand and accommodate cultural differences to achieve the best results from interventions. Many communities provide specialized batterer groups for those of different racial and ethnic groups, and different sexual orientations (Healey, Smith, & O’Sullivan, 1998). Other specialized groups that may be needed include programs for youthful offenders who have been adjudicated as adults, as they may be at a different developmental stage than adult offenders. Non-English speaking offenders will need specialized groups. As groups are both cognitive and interactive in nature, language fluency between group members and facilitators is crucial. Literacy skills may be another factor that influences participation in batterer programs, as many of the curricula for the programs include reading and homework. However, creative adaptations can be made to accommodate nonreading participants if specialized groups for them are not feasible.

A lengthy discussion of culturally competent interventions may be found in *Batterer Intervention: Program Approaches and Criminal Justice Strategies* by Kerry Healey, Christine Smith and Chris O’Sullivan, published by the National Institute of Justice, U.S. Department of Justice in 1998.

Three methods of enhancing culturally competent interventions include (Healey, Smith, & O’Sullivan, 1998, p. 66):

- recognizing and working with the social and psychological realities of participants without allowing these realities to become an excuse for abuse;
- capitalizing on cultural strengths and values—such as communality, a belief in family, and spirituality—to promote the change process; and
- decreasing the isolation or discrimination that minority batterers may feel in a culturally heterogeneous group.

Members of some cultural groups are reluctant to speak openly in group settings. Although groups are considered the preferred method of delivering batterer programs, this may be a barrier for some offenders (Healey et al., 1998). Both batterer program facilitators and community corrections professionals may need to work with offenders who have an aversion to group work to ease them into the experience and reduce their anxiety. Openly talking about cultural beliefs and providing initial non-threatening group experiences can help with these issues.

**GUIDELINE 40:**

***Female domestic violence offenders do not attend batterer intervention program groups with male offenders.***

**RATIONALE**

As discussed in chapter 9, women who are arrested and convicted of abusing an intimate partner often are engaging in self-defense. However, it is very rare that women are the primary physical aggressors in domestic violence cases, but dual arrest practices in some localities may lead to a disproportionate number of women on probation or parole having charges of intimate partner violence. When considering intervention with these women, the causes and purpose of the violence women commit should be understood as almost always different from men's violence, and therefore, different intervention approaches are needed.

**IMPLEMENTATION STRATEGIES**

Women should not be mandated to attend a batterer program that is oriented to male domestic violence offenders. Busey (1993) recommends that interventions for women offenders are provided either individually or in same-sex groups and include the following topics, among others:

- safety planning
- lethality indicators
- exposure to violence in families of origin
- victimization
- post-traumatic stress disorder
- substance abuse
- parenting
- socialization and healthy adult relationships.

Couples counseling is not recommended for female domestic violence offenders and their intimate partners.

**GUIDELINE 41:**

***Batterer intervention programs have protocols for assessing for and referring offenders with substance abuse or mental health problems to appropriate treatment programs, when indicated.***

**RATIONALE**

Comparisons between nonviolent and violent male drinking patterns reveal that domestic abusers are younger at arrest, began drinking at an earlier age, have stronger beliefs that alcohol *causes* their violence, and had more arrests than their nonalcoholic counterparts (Murphy and O'Farrell, 1994). Other research found that partner violent males are less educated, younger, have lower annual incomes, and are in relationships for shorter periods (Murphy, O'Farrell, Fals-Stewart, and Feehan, 2001). Bennett et al. (1994) found that stimulants, especially cocaine, are strongly associated with intimate partner abuse.

Community corrections practitioners referring offenders to batterer intervention programs must be cognizant of the association between domestic violence and offenders' mental health and substance abuse problems.

There is no evidence that domestic violence is caused by either mental health or substance abuse problems, but the co-existence among these three problem areas is high. These co-occurring problems make interventions more difficult and decrease the likelihood of successful outcomes. Offenders with drug and alcohol and mental health disorders are more likely to drop out of batterer programs (Bennett & Williams, 2001).

## **IMPLEMENTATION STRATEGIES**

Community supervision programs and batterer intervention programs need protocols to assess for and refer offenders with substance abuse and/or mental health problems to appropriate treatment programs. Gondolf (1995a) suggests that programs should not rely solely on self-reports by offenders but rather should use formalized testing or screening instruments for substance abuse and mental health disorders. Both community corrections and batterer programs should strive to develop relationships with mental health and substance abuse treatment providers that will assist in getting offenders assessed and into treatment programs as soon as possible and will allow for necessary communications with all those having responsibility for victim safety and offender accountability.

Most practitioners believe that it is best for offenders with concomitant domestic violence, substance abuse, and/or mental health problems to have these addressed simultaneously unless the problems are so severe that the offender is unable to function in a group intervention setting. To postpone working on one area while addressing another is usually considered counterproductive.

However, if substance abuse is a significant problem for the offender, it may have to be addressed first by inpatient or outpatient treatment before other interventions can be effective. Some ways community corrections officers can address substance abuse include:

- Request and enforce offenders to take drug and alcohol tests;
- Conduct substance abuse evaluations;
- Mandate substance abuse treatment;
- Enforce financial obligations, which would lessen the amount of available money for drugs or alcohol;
- Enforce community service and intervention programs that keep the offender involved in prosocial activities, reducing the amount of time to spend using drugs or alcohol.

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*Attachment 10-A***DOMESTIC VIOLENCE PERPETRATOR TREATMENT CRITERIA FOR PROGRAM COMPLETION**

The following constitute requirements for completing domestic violence perpetrator treatment in accord with program standards specified in WAC 388-60 and with expectations set forth by this program. All participants are required to meet these minimum criteria in order to complete the program. Program participants are expected to demonstrate progress toward goals/requirements during the treatment period and all items are non-negotiable; failure to meet one criterion may result in a revision of the treatment contract and/or termination from services.

The purpose of the program is to provide an environment which engenders personal honesty and accountability for ending the cycles of domestic violence and abuse in participants' lives; therapists work with groups and individuals to facilitate the process of building healthy relationships: all participants are expected to actively engage in this important process. **The following criteria represent the program's minimum expectations for completion:**

1. Adhere to and cooperate with all program *policies & procedures, guidelines for group sessions, and individual treatment plan/contract.*
2. Achieve, through demonstrated personal change, the following goals:
  - A. Cessation of violence and threats of violence toward others
  - B. Cessation of victim blaming and minimizing of abusive behavior
  - C. Successfully confront and overcome personal denial related to violent/abusive behavior
  - D. Establish and demonstrate personal accountability for breaking the cycles of violence/abuse
  - E. Examine, understand, confront, and change belief systems and patterns of behavior which perpetuate abuse toward others
  - F. Examine and understand personal dynamic/pattern of domestic violence
  - G. Demonstrate personal accountability for establishing healthy relationships
  - H. Practice non-controlling, non-oppressive relationship skills (both personally and interpersonally) in the areas of conflict management/resolution, communication, anger management, negotiation, parenting, etc.
  - I. Practice honesty and accountability.
3. Complete the minimum treatment period requirement established. (This period may be more than, but is no less than 12 consecutive months in regular, consistent treatment during which the participant remains in compliance with treatment expectations.)
4. Attend as scheduled, actively participate in the treatment process, and pay all fees or costs associated with participation in services in a consistent and timely manner.
5. Comply with all recommendations made by the program including timely completion of assessments or evaluations, participation in concurrent services (such as substance abuse treatment, parent education, or other forms of counseling or therapeutic intervention), etc.
6. Develop and adhere to a personal responsibility plan(s) which demonstrates personal accountability and honesty, and promotes victim safety.
7. Responsibly evaluate progress toward treatment program goals and the personal treatment contract; reviews of self-evaluations will be conducted in group and/or individually with a treatment staff.
8. Comply with all court orders or recommendations.

Participant signature: \_\_\_\_\_  
 Date of signing: \_\_\_\_\_  
 Clinician signature: \_\_\_\_\_  
 Date of signing: \_\_\_\_\_

(Source: *ABY and Associates, Kent, WA*)

*Attachment 10-B***DOMESTIC VIOLENCE PERPETRATOR TREATMENT PARTICIPANT TREATMENT CONTRACT**

**Program Philosophy:** This program is committed to working through a coordinated community effort to stop domestic violence. **The guiding priorities of this program are to promote and protect the safety of victims and to work toward change through personal accountability and honesty.** These goals are reached by establishing a positive and supportive environment for change. Research shows that enduring change happens through healthy choices based on diligent and critical self-examination, deeper self-awareness and increased self-mastery. The process of change begins with and is supported by enduring personal accountability and responsibility for who we are, our actions, thoughts, feelings, etc. All participants must: *remain accountable; refrain from victim blaming; stop all forms of violence and abuse; be open, honest, and respectful; practice empathy; promote the safety of those around them through healthy choices grounded in personal behavioral and attitudinal change; and establish ways to sustain change and foster personal growth beyond the treatment period.*

**PARTICIPANT CONTRACT**

As a participant in this program, I, \_\_\_\_\_, agree to the following conditions of treatment as defined by the treatment program and the WAC 388-60-140 (8):

**INITIALS**

\_\_\_\_\_ Consistent with the statement of program philosophy, I agree to stop any and all forms of battering and/or abusive behavior. I agree to refrain from victim blaming and to hold myself accountable for my actions, thoughts, and feelings.

\_\_\_\_\_ I agree that promoting and maintaining the safety of victims and those around me is my primary concern and that it is the primary responsibility of the program; therefore, I will stop all violent and/or threatening behavior and I make a commitment to remain non-violent, non-abusive, and non-controlling in my relationships.

\_\_\_\_\_ I agree to work diligently and to actively participate in my treatment process in order to demonstrate progress toward and achieve all personal and program treatment goals outlined in my treatment plan and the criteria for program completion. I will abide by, pursue, and achieve all recommendations, conditions and provisions made by the program and/or my therapist(s).

\_\_\_\_\_ I will thoughtfully develop and adhere to a personal responsibility plan consistent with program and treatment objectives; I will document a statement of personal accountability for my violent and/or abusive behavior in my relationships.

\_\_\_\_\_ I will comply with all recommendations and/or orders made by the court(s) and/or monitoring agency.

\_\_\_\_\_ I agree to attend and pay for services as expected. I agree to actively participate in the treatment process including sharing personal history, attitudes, beliefs, and experiences; complete all exercises and assignments; and, demonstrate progress toward treatment goals through my participation.

\_\_\_\_\_ I will execute all necessary documents for releases of information to victims, significant others, law enforcement, the courts, probation, advocates, and others as requested by the program. I agree to provide any and all documents related to prior violence, prior or current treatment services, and to execute appropriate releases to authorize document provision by others with whom I have had privileged communication.

\_\_\_\_\_ I understand and agree to abide by the terms for contractual discharge and completion of treatment.

\_\_\_\_\_ I agree that I have the right to confidentiality within the specified limits, and to the requirement that a participant safeguards the confidentiality of other group members.

\_\_\_\_\_ I agree that this program has a duty to warn and protect victims, law enforcement, and third parties related to any risk of serious harm posed by the participant.

\_\_\_\_\_ I agree with and will abide by the drug and alcohol policy which states that I will attend sessions free of drugs and/or alcohol.

\_\_\_\_\_ I understand and agree with program expectations regarding the minimum treatment period and all recommendations, provisions, and/or conditions of treatment.

\_\_\_\_\_ I understand and agree to adhere to and cooperate with all terms and conditions of treatment and the program outlined in the **policies and procedures, guidelines for group sessions, criteria for program completion, treatment plan,** and this **treatment contract**. I understand that my failure to do so may result in non-compliance and/or termination from services.

\_\_\_\_\_ I understand the policies regarding re-offenses, non-compliance, and termination. I understand that my failure to participate as expected will result in consequences including but not limited to non-compliance and/or termination.

\_\_\_\_\_ I agree to notify the program and/or treatment staff immediately of any “change in status” described in the **policies and procedures**.

\_\_\_\_\_ I understand all treatment recommendations are subject to change as collateral information is received from any and all sources including experiences shared by me during treatment or casual conversation.

\_\_\_\_\_ I understand and agree that I am here to work on my issues and this program is for batterers. I will not present myself as a victim or blame the victim(s) of my abuse.

All of the items described in the treatment contract are grounded in the *policies & procedures, criteria for program completion, treatment plan, guidelines for group sessions*, and are supported by *WAC 388-60*. I have read, understand, and when appropriate, signed all of the indicated documents. I have had an opportunity to have my questions answered regarding the indicated documents. I understand that violations of any of these terms, conditions, policies, procedures, criteria, guidelines, or failure to comply with program expectations may result in my termination from services. I hereby give my commitment to faithfully adhere to the terms of this contract, related documents, and all program expectations.

Program Participant \_\_\_\_\_

Date \_\_\_\_\_

Program Staff \_\_\_\_\_

Date \_\_\_\_\_

(Source: *ABY and Associates, Kent, WA*)

*Attachment 10-C***PROGRAM PARTICIPATION AGREEMENT**

Name: \_\_\_\_\_

I was referred to RAVEN by: \_\_\_\_\_

I was referred to RAVEN because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_, acknowledge that I need help because of my past abusive behavior, and that I need to learn and use non-abusive behaviors. I agree to deal with my problems by working with the RAVEN program consisting of a minimum of 48 two-hour group/classes, as determined by RAVEN staff.

**During the duration of this agreement, I agree to the following terms.**

1. **I will not use physical and/or sexual violence toward others, including animals.**
2. I understand and will accept the RAVEN definitions of abuse, violence and physical violence for the purpose of ending violence in my life.
3. I will comply with all court orders and/or conditions of probation/parole.
4. I will pay all fees due RAVEN at the time of service based on current income.
5. I will treat all fellow participants and RAVEN staff with respect and courtesy.
6. I will accept any referral for alcohol/substance abuse treatment, as required by RAVEN and attend RAVEN groups in accord with such treatment.
7. I will immediately report any changes in my address, phone number, income, marital or dependent status and probation/parole status or officer to the RAVEN office staff.
8. I understand and will follow current RAVEN policies, as stated in the *Group/Class Guidelines*, including completing assignment and submitting all paperwork and documentation when due.
9. I understand and will follow current RAVEN policies, as stated in the current *Program Guidelines*.
10. I will turn in a *Non-Violence Safety Plan* within 16 weeks after signing this contract. I will continue to work on the plan until it is approved by RAVEN. I will ask for help if I am having trouble writing the plan. I understand that I will be expected to present in group and refine this plan until it is approved, and that the total number of RAVEN sessions may be increased if I do not turn it in on time.
11. I give permission to RAVEN staff to communicate with referring agencies to the extent they believe it necessary to accomplish program objectives.
12. I give permission to RAVEN staff to audio-tape my voice during groups/classes for the purpose of training and supervising facilitators and practicum students.
13. I will protect the names and identities of other group participants when outside of the group and follow the rules of confidentiality.

14. I will obey RAVEN premises rules:

- No weapons of any kind allowed on the premises, including work tools, pocket knives, etc.
- No alcohol or drugs are allowed on the premises.
- Smoking is not allowed inside the building.
- Disruptive behavior, abuse or violence is not allowed on the premises.
- Clothing that is considered demeaning or that promotes violence is not allowed on the premises

15. I understand that to complete the program successfully, I must:

- Be accountable and accept full responsibility for my past, present and future behavior, knowing that it is always a choice.
- Withdraw blame from anyone else.
- See my behavior as part of a larger pattern of abuse of women in society.
- Develop a safety plan. (See #9)
- Choose a non-controlling action when I notice my warning signs.

16. If I make a mistake and break any of the above agreements for ending my violence, I will report this immediately to RAVEN and will openly talk about the problem. I will accept the consequences of such behavior, which may include:

- Being required to attend more sessions
- Removal from the program
- Being reported to appropriate authorities

I am aware that acceptance into the RAVEN program is provisional, meaning that I must comply with all RAVEN requirements. If I do not comply with these requirements, the agreement will end and permission to continue in the program may be denied.

I understand the above and agree to these terms.

Participant Signature \_\_\_\_\_

Date \_\_\_\_\_

Witness \_\_\_\_\_

Date \_\_\_\_\_

*(Source: RAVEN—Rape And Violence End Now, 7314 Manchester, St. Louis, MO 63143)*

*Attachment 10-D*

**RELEASE OF INFORMATION**

I, \_\_\_\_\_ D.O.B. \_\_\_\_/\_\_\_\_/\_\_\_\_  
Legal Name

Case #'s \_\_\_\_\_

Residing at: \_\_\_\_\_  
Physical Address

\_\_\_\_\_ Mailing Address

authorize \_\_\_\_\_ to mutually exchange information with the following named Party. The access to information remains unrestricted throughout the course of treatment with this Program.

\_\_\_\_\_ Party Name

\_\_\_\_\_ Party Address

Should this release lapse during treatment the Program Participant will be considered out of compliance with the Program. I may revoke this release at any time except to the extent that action has been taken in reliance on it. Revocation must be in writing and takes effect at the time that staff physically receives the revocation. I understand that my records are protected under Federal 42CRF and State RCW 71.050390 confidentiality regulations. I understand that information about child abuse, protected populations abuse, danger to self or others, and specific threats about or against someone is not protected under confidentiality laws. Clinicians are bound by a duty to warn.

\_\_\_\_\_  
Signature of Participant Date of Signing

\_\_\_\_\_  
Signature of Witness Date of Signing

**RENEWAL DATES EVERY NINETY DAYS:**

\_\_\_\_\_  
Initial Date

*(Source: ABY and Associates, Kent, WA)*

*Attachment 10-E***CRITERIA FOR “SPECIAL FEE” CONSIDERATION**

*The following policy and criteria was established to ensure that clients “in need” would be eligible for “Special Fee” consideration when entering or participating in a certified intervention program.*

To be eligible for consideration for the reduced fee for participation in a Court ordered domestic violence program, a participant must meet one of the following five (5) criteria:

1. Homeless
2. Resident in a halfway house or treatment facility, with no income
3. Receiving General Relief
4. Family household is receiving AFDC
5. Unable to meet current financial obligations

AND, the participant must have income below the poverty\* level, defined as follows:

| <u>Size of Family</u> | <u>Gross Annual Family Income</u> |
|-----------------------|-----------------------------------|
| 1                     | \$ 8,590                          |
| 2                     | \$ 11,610                         |
| 3                     | 14,630                            |
| 4                     | 17,650                            |
| 5                     | 20,670                            |
| 6                     | 23,690                            |
| 7                     | 26,710                            |
| 8                     | 29,730                            |

(For family units of more than 8 members, add \$3,020 for each additional member.)

*\*as defined by current Income Poverty Guidelines found in the Federal Registry (2001).*

Documentation is *required*. The “burden of proof” resides with the client. Each agency will require that every client requesting consideration for a reduced fee will provide documentation that supports their current financial status. The recommended documentation requested will include:

- Pay stubs
- Welfare papers
- Disability papers
- Proof from employer (i.e., temporary lay-off, etc.)
- Court documents (i.e., child support payments, etc.)
- Household bills (i.e., rent receipts, etc.)
- Checking account statements

## DEFINITION OF INCOME

*from Federal Register, Vol. 61, #43, March 4, 1996:*

For statistical purposes to determine official income and poverty statistics the Bureau of the Census defines income to include total annual cash receipts before taxes from all sources, with the exceptions noted below. Income includes money wages and salaries before any deductions; net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses); regular payments from social security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, Emergency Assistance money payments, and non-Federally Funded General Assistance or General Relief money payments), and training stipends; alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions; government employee pensions (including military retirement pay), and regular insurance or annuity payments; college or university scholarships, grants, fellowships and assistantships; and dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

For official statistical purposes, income does not include the following types of money received: capital gains; any assets drawn as withdrawals from a bank, the sale of property, a house, or a car; tax refunds; gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury. Also excluded are noncash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food or fuel produced and consumed on farms, the imported value of rent from owner-occupied nonfarm housing, and such Federal non-cash benefit programs as Medicare, Medicaid, food stamps, school lunches and housing assistance.

(Source: Standards for Interventions Used with Court Ordered Domestic Violence Offenders, San Diego Domestic Violence Council, San Diego, CA, Rev. January 2002.)



**COMMUNITY  
CORRECTIONS RESPONSE  
TO DOMESTIC VIOLENCE:**

**G U I D E L I N E S F O R P R A C T I C E**