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RESEARCH

A National Portrait of Domestic Violence Courts

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Executive Summary

A growing number of criminal courts nationwide handle domestic violence cases on separate calendars, termed domestic violence courts. There are now 208 confirmed domestic violence courts across the U.S. (Center for Court Innovation 2009). More than 150 similar projects have been established internationally. Some domestic violence courts emerged in the context of the broader “problem-solving court” movement and share characteristics with other specialized courts, such as separate dockets and specially trained judges. However, the origins of domestic violence courts are also distinct, growing out of the increased attention afforded domestic violence matters by the justice system over the past 30 years.

With funding from the National Institute of Justice, this study explores how criminal domestic violence courts have evolved, their rationale, and how their operations vary across the U.S. This study does not test whether domestic violence courts reduce recidivism, protect victims, or achieve other specific effects – although we provide a thorough literature review on these points. Rather, our aim is to present a comprehensive national portrait of the field as it exists today, laying the groundwork for future information exchange and research.

Our results point to strong national convergence around the fundamental domestic violence court goals of victim safety and offender accountability. Yet, the study revealed wide variations in the policies and protocols that different courts have implemented to achieve these goals. We also identified other goals that did not achieve such high levels of agreement, including efficiency of case processing, correct application of state statutes, and offender rehabilitation. Several relationships were found that suggest associations between how courts prioritize their goals, the state in which the court is located, and the presence of statutory requirements, on the one hand, and specific court policies on the other hand. Since policies varied widely, domestic violence courts do not appear to have a single “model” to inform their operations. It is not the role of this report to posit that they should. This report simply provides an account of the current field, as a starting point for the development of proposals on how that field might change or grow.

Research Design

The study focused on *criminal* domestic violence courts only. We defined them as courts that handle domestic violence cases on a separate calendar or assign domestic violence cases to one or more dedicated judges or judicial officers. A mixed methods design was implemented to achieve both scope and depth of understanding. The study unfolded in four steps, with the results of each step informing the next:

- Court Compendium: Utilizing a variety of investigative methods, we developed a comprehensive list of criminal domestic violence courts nationwide. The compendium is a separate document (Center for Court Innovation 2009) that includes court names and addresses organized by state. Following publication, this list may be used by domestic violence courts to network with other courts in their region.

- Site Visits: We visited three domestic violence courts in each of five states (California, Florida, Illinois, New York, and Washington) to develop in-depth information on 15 courts using semi-structured interviews and structured courtroom observations. Interviews were conducted with more than 120 stakeholders altogether, primarily judges, court administrators, prosecutors, and victim advocates, but also defense attorneys, probation officers, batterer program administrators and law enforcement officers.
- National Surveys: We administered a survey to all potentially qualifying courts in the national compendium and a survey of prosecutors linked to each court. Response rates were 56% for the court and 44% for the prosecutor surveys.
- Phone Interviews: We conducted phone interviews with a subsample of court survey respondents to explore the meaning of their responses to particular questions and to obtain additional qualitative data on court goals, operations, and challenges.

Ultimately, the research followed an iterative design through which our initial compendium functioned as our survey sample, and survey responses informed revision of the compendium. Although the survey was sent to 338 *potential* domestic violence courts, survey responses indicated that not all of these courts met our minimum criteria. Accordingly, the final compendium includes information on 208 confirmed domestic violence courts – courts that affirmed their status in their survey responses or that we later independently determined to have a specialized domestic violence calendar or dedicated judge. We found that the majority are in New York (63) and California (34). Other states with a higher-than-average number of domestic violence courts were Florida (14), Michigan (13) and North Carolina (11). The remaining 74 courts were distributed across 27 other states and Guam. Eighteen states have no domestic violence courts that we could identify.

Major Findings

We report major findings in four domains: (1) domestic violence court goals, (2) victim services and safety; (3) offender assessments and programs, and (4) compliance monitoring. Notable findings that did not fit into one of these categories are highlighted at the end of this summary.

1. Domestic Violence Court Goals

- Victim Safety: Most court survey respondents (83%) rated increasing victim safety as “extremely important.” In site visits, stakeholders variously linked this goal to services for victims, orders of protection, and safe victim waiting areas in the courthouse.
- Offender Accountability: Nearly four-fifths of court respondents (79%) rated holding offenders accountable for illegal behavior as “extremely important.” In interviews on our site visits, stakeholders most often expressed that this goal was achieved through offender supervision, batterer program mandates, and efforts to increase offender compliance with protective orders. Stakeholders did not usually discuss severity of sentencing as a means of holding offenders accountable.

- Other Goals: Respondents to the court survey did not reach such high levels of agreement on the importance they attached to the 11 other goals they were asked to evaluate.
 - *Deterrence:* Two other goals rated extremely important by a majority of respondents were deterring recidivism (68%) and penalizing noncompliant offenders (60%).
 - *Rehabilitation:* Only about a quarter of all respondents (27%) identified rehabilitating offenders as extremely important, but on further inspection, it appears that the large number of domestic violence courts in New York State were responsible for this low ranking: More than half of the courts outside New York State (53%) deemed this goal extremely important but only 19% of New York’s courts did so.
 - *Administration of Justice:* A factor analysis revealed a distinct cluster of goals having to do with the *administration of justice* – efficiency of case processing, consistency of dispositions and sentences cases, and correct application of statutes; a majority of respondents rated this set of goals either very or extremely important.

2. Victim Services and Safety

- Victim Advocacy: Dedicated victim advocates worked at or in conjunction with 79% of the domestic violence courts. The presence of victim advocates was significantly associated with prioritizing the goal of “facilitating victim access to services.”
- Advocacy Services: In the prosecutor survey, court-based victim advocates (many of whom are employed by the prosecutor’s office) were described as providing a range of services that include accompanying victims to court (80%), safety planning (79%), explaining the criminal justice process (79%), providing housing referrals (73%), facilitating prosecution (64%), and counseling (56%). The data showed that the advocates working for the prosecutors’ offices place a higher priority on trying to gain victims’ cooperation with prosecution, whereas those working for private agencies emphasize prosecution less often and see their role as helping the victim achieve her goals, whether or not they involve prosecution of her abuser.
- Orders of Protection: The vast majority of surveyed courts (88%) reported either that they issue a temporary order of protection or restraining order at first appearance in the domestic violence court or that such an order has already been issued before defendants reach the specialized court. At sentencing, 82% of courts reported that they often or always impose a final order of protection prohibiting or limiting contact with the victim. California’s courts were especially likely to report imposing final protection orders.
- Courthouse Safety: Qualitative data revealed that stakeholders consider the physical safety of victims who are attending court to be a major concern. Survey results showed that courts do not consistently provide safety measures, however: 60% do not provide separate seating areas in the court; 50% do not provide escorts in the courthouse; 40% lack separate waiting areas in the courthouse; and 76% do not provide childcare. Court staff reported a desire to offer these accommodations but a lack of resources.

3. Offender Assessments and Programs

- Assessments: Offender assessments were not conducted by the majority of courts. They were usually conducted by prosecution staff, probation, or the staff of batterer programs or other outside programs. Just less than half the court survey respondents (45%) reported that assessments were conducted often or always, and another 11% reported that they were conducted sometimes. The most common types of assessments conducted in conjunction with domestic violence courts were for drug and alcohol dependence (51%) and mental health issues (49%). Some courts also assess the offender's history of victimization (26%), background characteristics (40%), risk of repeat violence (40%) and service needs (34%).
- Batterer Programs: All courts reported using batterer programs in at least some cases, but with widely varying frequency. Batterer program mandates were the primary response to domestic violence offenses by 34% of courts responding to the survey, which reported ordering 75% to 100% of offenders to a batterer program. More courts infrequently mandate batterer programs: 44% reported ordering less than a quarter of the offenders to such programs. Courts rating offender rehabilitation as an extremely important goal were especially likely to report sentencing offenders to batterer programs, as were domestic violence courts located in the state of California (presumably because of California's statutes governing the sentencing of domestic violence offenders).
- Other Programs: Orders to attend other types of programs appeared to be as prevalent as orders to batterer programs. Nearly all surveyed courts reported that they order offenders to alcohol or substance abuse treatment (94%) or mental health treatment (86%) in at least some cases. Many courts also reported ordering domestic violence offenders to parenting classes (64%). We found that the use of other programs was independent of the use of batterer programs; that is, reported use of each other type of program neither increased nor decreased as a function of frequency of use of batterer programs.

4. Compliance Monitoring

- Probation Monitoring: Overall, more than half of the courts (62%) reported often or always ordering offenders to probation supervision. When probation is involved, extremely few courts (10%) indicated that they rarely or never receive compliance reports. Courts that rated offender accountability as an extremely important goal were especially likely to use probation, as were courts from states that have statutory sentencing requirements.¹ Independent of the relationship with state statutes, California's courts were also especially likely, and New York's courts especially unlikely, to report often or always sentencing offenders to probation.

¹ Survey respondents from 14 states indicated that their state laws impose mandatory sentences for at least some categories of domestic violence offenses, such as required minimum periods in custody, minimum probation terms, batterer programs, fines, community service, firearms relinquishment, or protection orders.

- Judicial Monitoring: Use of judicial monitoring or ongoing court review hearings varied, with 56% of courts reporting that they often or always mandate offenders to return to court post-disposition for monitoring and an additional 15% reporting they sometimes do so. The data also revealed variation in the frequency of judicial monitoring and the practices implemented at each judicial status hearing (e.g., reviewing program reports, restating responsibilities, praising compliance, or sanctioning noncompliance). Hence, the surveyed domestic violence courts have not arrived at a set of widely adopted or recommended monitoring practices. In general, domestic violence courts in California and New York were more likely than those in other states to use judicial monitoring.
- Response to Noncompliance: At judicial status hearings, 27% of courts reported that they always impose sanctions for noncompliance with court mandates and 50% reported that they often do so. The most common responses with failure to comply with mandates were the least punitive: verbal admonishment (83% often or always), immediate return to court (73%), and increased court appearances (59%). Less common were revoking or amending probation (37%) and jail (29%). The results point to a lack of consistency across courts. Respondents emphasizing the goals of accountability and penalizing noncompliance were especially likely to report imposing jail as a sanction.

5. Additional Themes

Among the themes noted below, many emerged in responses to open-ended survey questions and in interviews conducted across the 15 site visits:

- General Appraisal: Study participants expressed positive perceptions overall of their domestic violence courts, viewing them as successful and effective. (We report this finding as an indicator of high stakeholder satisfaction, recognizing that independent research would be necessary to confirm these perceptions.)
- Collaboration: Stakeholders did not universally report that they had established strong collaborations, but they generally emphasized that doing so was important. Those from domestic violence courts that had cultivated cooperative relationships (e.g., among the judiciary, prosecution, victim advocates, probation, and law enforcement), preferably beginning at the planning process, saw it as a key to their success, whereas those from courts that lacked such cooperation saw it as a significant obstacle to the court's goals.
- Consistency: Many stakeholders emphasized the importance of having a dedicated and experienced judge (as well as other dedicated and experience staff) to achieve a consistent and predictable approach to the adjudication of domestic violence cases.
- Training: More than 91% of the courts surveyed reported that their dedicated judges had received specialized training. Nonetheless, the need for training and retraining of judges and other team members (police, attorneys, and court personnel) on domestic violence dynamics and related legal issues was a recurrent theme in our qualitative data. Staff turnover was a related concern, connected with the need to maintain a team that is trained, sensitive, and invested in addressing the problem of domestic violence.

- Victim Outreach: Many stakeholders underlined the difficulty of involving victims in prosecution and the negative impact on the chances of conviction and appropriately severe sentencing. Prosecutors especially expressed that they often struggle to pursue cases because victims often want charges dropped. Some prosecutors' offices respond to this challenge by instituting "no-drop" policies, but state statutes can constrain their ability to pursue charges without victim testimony. How to handle prosecution when the victim opposes it or declines to participate can create tensions among prosecutors, victim advocacy agencies and the court. (Prosecutors did not perceive this obstacle, per se, as specific to domestic violence courts, but rather as an important general concern in domestic violence case prosecution.)
- Resources: Stakeholders expressed great concern about scarce resources. They variously articulated a need for increased funding for probation supervision, offender programming, and victim services. Several stakeholders also expressed regret that understaffing and swelling caseloads precluded effective judicial monitoring. In places where stakeholders felt that their court was successful, they attributed the success to having adequate resources for intensive supervision of domestic violence offenders, services for victims by multiple agencies, and programs for offenders.

Conclusions

The number of specialized domestic violence courts is continuing to grow nationwide. We identified 208 courts that have specialized dockets or dedicated judges, an increase of more than 150 courts since the last national study a decade ago identified only 42 domestic violence courts (Keilitz 2000). Specialized domestic violence courts can be found in 32 states across the Northeast, South, Midwest, and West, as well as in the territory of Guam. It is notable, however, that California and New York account for nearly half the total (46%).

We found consensus among court stakeholders with respect to the primary rationales for creating a domestic violence court: increased victim safety, offender accountability, and deterring of future violence. Qualitative data, however, revealed differing expectations of which policies and practices would achieve these aspirations. Moreover, we found substantial divergence in the importance assigned to other goals, such as fostering judicial expertise, correctly applying state statutes, and achieving a coordinated response to domestic violence. We also found diversity in the structure of today's domestic violence courts and in the practices adopted across many domains. These domains included the availability of victim services and safety measures (such as safe spaces and escorts in the court), the use of offender assessments and programs, and practices related to offender accountability (such as sanctions for noncompliant offenders).

These findings highlight an important distinction between domestic violence courts and other problem-solving models, particularly drug and mental health courts, which have a more clearly delineated structure and widely shared set of core goals, policies, and practices. We hope that these results constitute a useful first step in stimulating the field to engage in greater information exchange and collaboration, perhaps leading to the development of a more consistent set of policies and practices, or at least fostering greater mutual understanding of the alternative goals, policies, and models that exist today.

Chapter 1

Introduction

Over the past three decades, a variety of legal responses to domestic violence have been adopted, including mandatory arrest policies, specialized prosecution units, and courts dedicated to providing civil orders of protection. Simultaneously, victim advocates have developed shelters, programs, and community interventions with the dual goals of protecting victims and decreasing abuse by perpetrators of domestic violence.

Specialized criminal domestic violence courts, informed by both the legal reforms and advocacy movements, have grown rapidly since the late 1990s. For the purposes of this study, criminal domestic violence courts were defined as those hearing criminal domestic violence cases on a separate calendar or by a dedicated judge or judicial officer. Our survey identified 129 criminal domestic violence courts currently operating in the United States. Subsequent research conducted to construct our national compendium suggests the actual number exceeds 200 (Center for Court Innovation 2009). There is substantial geographic concentration of domestic violence courts in six states that account for more than half the national total: California, New York, Washington, Florida, Michigan, and Alabama. One or more domestic violence courts were identified in 35 other states. Other countries have also established domestic violence courts: there are more than 50 in Canada (Quann 2007) and nearly 100 in England (Crown Prosecution Service 2008).

The purpose of this study, funded by the National Institute of Justice, was to produce a portrait of these courts, exploring why they were created, how they work, and how they vary. This study was not an impact evaluation; we did not test whether domestic violence courts reduce recidivism, protect victims, or achieve other quantifiable outcomes, although we did review the literature on these points. Rather, our primary aim was to produce a description of the courts in an effort to identify best practices and inform future research.

Multiple Goals and Origins

In previous research, those establishing domestic violence courts have reported a variety of reasons for doing so, ranging from fundamental concerns with the adjudication process, such as processing cases expeditiously, to concerns with extra-legal outcomes, such as increasing victim safety (Gavin and Puffett 2007; Keilitz 2001). The following list identifies goals and motives for creating domestic violence courts identified through visits to 15 domestic violence courts for the present study and review of previous studies.

- Correct application of statutory requirements: Consistent application of legally appropriate procedures and sentences, especially in states with domestic violence statutes that require courts to process and sentence cases in particular ways distinct from other criminal cases.

- Efficient case processing: Effective management of domestic violence caseloads, including efficient and timely screening and processing to disposition.
- Informed decision making: Assignment and training of dedicated judges and other staff who develop expertise in the dynamics of domestic violence and related legal issues.
- Coordinated response: Participation of the court in a network of criminal justice agencies, victim service organizations, and offender program providers working collaboratively to share information and create effective policies.
- Victim safety and services: Assistance to victims such as court accompaniment, crisis intervention, shelter referral, and other services.
- Offender accountability: Adjudication and sentencing to hold domestic violence offenders responsible for their criminal behavior and convey that domestic violence is unacceptable.
- Reduced recidivism: A decrease in future domestic violence as a result of effective case handling, through *rehabilitation* (changing offenders' beliefs and attitudes) or *deterrence* (increasing the perceived consequences of re-offending).

The multiplicity of goals of domestic violence court is a natural consequence of their disparate origins. As early as the 1970s, the feminist and battered women's movements began to reshape many aspects of the criminal justice response to domestic violence. Activists promoted the recognition of domestic violence not as a private matter but as a crime, spawning the passage of federal and state laws requiring consistent enforcement and greater attention to the safety of abused women (Horowitz 2003; Schechter 1982). Pro-arrest policies, evidence-based prosecution, and specialized police and prosecution units all emerged as a result (Rebovich 1996; Sherman 1992). Change accelerated with the passage of the Violence Against Women Act in 1994, which established federal pro-arrest laws and funding mechanisms for victim services and other innovations (Buzawa and Buzawa 1996; Hanna 1996).

These reforms led to a massive influx of domestic violence cases into criminal courts nationwide (Ostrom and Kauder 1999). Whether to provide a more intensive focus on the unique problems posed by domestic violence cases, to enforce new domestic violence laws with a consistent approach, or to cope more efficiently with the ballooning case volume, the results provided a number of reasons to handle domestic violence cases in a specialized courtroom.

The 1990s and early 2000s, jurisdictions began to create *specialized* courts to handle cases that share a common underlying problem. Generally known as "problem-solving courts" (or "collaborative justice courts" in California), more than 3,000 have been established nationwide, including drug courts, mental health courts, community courts, and domestic violence courts (Huddleston, Marlowe, and Casebolt 2008). Each model tackles a different set of issues, from drug addiction to mental illness to community disorganization, but they all seek improved outcomes for defendants, litigants, victims, and communities (Berman and Feinblatt 2005; Casey and Rottman 2005) by addressing the underlying issue that led the offender to commit the crime.

Most problem-solving courts also share a number of common practices, such as referral to community-based programs, ongoing compliance monitoring, and collaboration among multiple justice and community partners (Farole et al. 2005; Wolf 2007). To provide centralized oversight spanning the different models, more than a dozen states have established a statewide problem-solving court coordinator.

Even though they emerged concurrently with the broader problem-solving court movement, domestic violence courts do not reflect all the movement's principles and practices as just summarized. Most problem-solving courts focus on victimless crimes. Drug and mental health courts, for instance, deal with nonviolent offenses and can focus their attention on the defendant. In domestic violence cases, not only is there a victim but also the same victim is at ongoing risk of being assaulted by the same offender. Domestic violence courts have a responsibility to the victim, and often provide services for them in addition to addressing the criminal behavior of the defendant. At the same time, victim advocates have argued that the criminal justice system has not treated assaults by intimate partners as seriously as similar crimes committed against strangers or acquaintances.

Perhaps more critically, most problem-solving court models operate under the assumption that the defendant's criminal behavior stems from underlying problems that treatment or services can resolve. Although many if not most domestic violence courts subscribe to this analysis as well, the premise is controversial in regard to domestic violence offenders. Many agencies that work with victims of domestic violence argue that the underlying problem is not an aberration or treatable illness of individual offenders but of societal values. Furthermore, among researchers, there is considerable doubt over whether court-mandated programs can succeed at rehabilitation in this area (Babcock, Green, and Robie 2004; Feder and Wilson 2005; Rempel 2009; and others).

In some states, statutes and policies have influenced the planning and operations of domestic violence courts. For example, California, Florida, and North Carolina have statutes specifying mandatory sentences and monitoring requirements for those convicted of domestic violence crimes. In these states, domestic violence courts may be seen as a logical mechanism to promote the proper execution of statutes, such as mandatory sentences to probation and batterer programs. In other states that allow greater discretion in charging and sentencing, domestic violence court models may be more variable and depend on the goals and resources of the individual court.

For all of the above reasons, domestic violence courts reflect neither unified origins nor a unified approach, but they do share common goals. Domestic violence courts also lack a single information clearinghouse as exists with drug courts (National Association of Drug Court Professionals), leading many such courts to reflect specific local or statewide approaches. Thus, a comprehensive list of the country's domestic violence courts did not exist until its collection as part of this study, an undertaking that was fraught with difficulties, described in chapter 3. It remains to be seen whether such a list will be routinely updated and whether cross-fertilization among domestic violence courts will become the norm.

About This Study

We sought to map the contemporary landscape of criminal domestic violence courts. By doing so, we hoped to lay the groundwork for future information exchange, training, and cross-site mentoring. Such efforts may facilitate domestic violence court staff learning from each other, increase consistency within and across jurisdictions, and encourage the dissemination of promising practices.

The study proceeded as follows. First, we produced a working compendium of criminal domestic violence courts nationwide. This list was compiled through primary research to identify as many potential domestic violence courts as possible. Those confirmed to be domestic violence courts, along with court names and addresses, was released in a separate document (Center for Court Innovation 2009). The purpose of the compendium is twofold: first, it aided in constructing the survey sample; second, we hope the compendium will serve as a resource for domestic violence courts to cross-pollinate ideas and practices with other courts in their region.² Second, we conducted site visits to 15 domestic violence courts in five states, including in-depth interviews with a wide range of professionals who work in or with the court and structured observations of the court operations. From these site visits, we identified common themes and critical issues influencing court practices and used this information to construct a national survey. Third, two surveys were developed and sent to the court and to prosecutors, because prosecutors often assume a critical role in the establishment of domestic violence courts (Gavin and Puffett 2007). Finally, we conducted follow-up telephone interviews with select sites to probe and clarify survey responses. Our analyses incorporated all data sources to reveal the current state of the field.

² The protection of respondent confidentiality prohibits including contact information for specific individuals in the compendium or linking specific courts with any of the reported policies in this study. Readers who are interested in a particular policy or practice discussed in this report are invited to contact Samantha Moore, Manager, Domestic Violence and Family Court Programs, at the Center for Court Innovation (smoore@courts.state.ny.us).

Chapter 2

The Impact of Domestic Violence Courts

This chapter explores the research literature to date on domestic violence courts. Ultimately, the goal of studying domestic violence courts is to develop an understanding of the most effective practices; however, we are not in a position to develop best practice models if we do not know the variations in how the courts operate, the contextual factors that influence their structures and procedures, and the full range of policies, practices, and goals. In this chapter, we will first review previous literature on the origin, development, and features of specialized adjudication of domestic violence cases. We will also briefly review the impact evaluations which are, by necessity, small scale and site specific.

Domestic Violence Courts Today

Variations in Definitions of Domestic Violence Courts

One important distinction among domestic violence courts is that some are criminal courts and some are civil courts. Several states, however, including New York and Florida, are experimenting with “integrated” domestic violence courts that combine civil and criminal functions so that a single court can hear both types of cases involving the same defendant or family members (Goldkamp et al. 1996; Sack 2002; Steketee, Levey, and Keilitz 2000). Because this study focused on criminal courts, we will review here only the literature on criminal and integrated domestic violence courts.

Cases heard in domestic violence courts are obviously limited by the relationship between the victim and offender. How broadly or narrowly the qualifying relationship is defined varies, however. Some criminal domestic violence courts hear only cases involving crimes committed against current and former intimate partners, whereas other courts hear cases involving crimes against any family member (Sack 2002).

Also, jurisdictions vary in the stage of case processing at which cases are heard in a domestic violence court. In some jurisdictions the specialized approach occurs only at the pretrial conference (Helling 2003). Some domestic violence courts pick up cases after the initial court appearance, e.g., subsequent to arraignment or bond hearing, but others hear cases from arraignment through disposition. Depending on the volume of cases and resources, domestic violence courts may operate full time, while others have a more limited calendar, meeting a few times per week or on alternating weeks. Similarly determined by volume and resources, some jurisdictions have a single specialized judge and domestic violence calendar, whereas others have multiple judges and calendars. In the latter situation, the different domestic violence parts may be able to specialize by phase of adjudication, such that cases in the pretrial phase appear on one calendar and those appearing for compliance monitoring on another.

History and Evolution of Domestic Violence Courts

In 2000, the National Center for State Courts surveyed 160 courts that seemed to have implemented some type of specialized case management for domestic violence cases. These practices ranged from a specialized intake unit dedicated to domestic violence cases or defined set of policies and practices for monitoring compliance among domestic violence offenders to a full specialized court with a dedicated judge and calendar (Keilitz 2001; Steketee et al. 2000). Of the 103 responding courts, 42 indicated that they had in fact established a criminal domestic violence court. This survey provided the first source of information on domestic violence court policies. It revealed consensus in regard to the goals of assisting victims, enhancing victim safety, and increasing defendant accountability but great diversity with regard to court practice and structure. Keilitz (2001) suggested that many of the courts lacked the supporting practices and service linkages necessary to achieve their goals.

Most of the courts reported having specialized mechanisms in place for handling domestic violence cases, such as case screening and identification, intake units, and court-ordered batterer programs or, as mentioned above, dedicated calendars and judges. Few courts, however, reported using all of these practices together, and Keilitz was unable to detect a common configuration or strategy for the application of these practices. Keilitz concluded that “the concept of a domestic violence court is not yet well developed or defined among the court community” (2001: 14).

This conclusion was reinforced in Shelton’s 2007 report that attempted to update Keilitz’s catalog of specialized courts within the United States. Using the internet, Shelton identified what were believed to be 51 additional domestic violence courts. Shelton confirmed Keilitz’s impression that domestic violence courts continued to be developed in a “piecemeal fashion” and speculated that “the crucial infusion of federal funds for the establishment of such courts was done in a way that resulted in the development of alternative models in various locales” (2007: 21-22).

Goals and Outcome Assessments

Since domestic violence courts lack a common vision or set of practices, it is not surprising that attempts to assess the impact of domestic violence courts have different findings. Approximately a dozen studies have tested the impact of domestic violence courts on overlapping outcomes. The following discussion reviews the findings related to court efficiency, interagency coordination, informed decision making, victim services, offender accountability, and recidivism. Identifying these themes in the literature helped us to structure our inquiry about goals, obstacles, and practices in our national survey of domestic violence courts.

Court Efficiency

As described in chapter 1, the exponentially increasing volume of cases involving violence against intimate partners was a substantial motivation for organizing criminal domestic violence courts in many jurisdictions. For example, at least one domestic violence court in Milwaukee was created expressly to increase efficiency and was found to be successful in this regard (Davis, Smith, and Rabbitt 2001). Studies of misdemeanor domestic violence courts in Manhattan,

Minneapolis, and San Diego confirm that these courts reduced the time from case filing to disposition (Angene 2000; Eckberg and Podkpacz 2002; Peterson 2004).

Another goal of domestic violence courts is simply to pay more attention to intimate partner violence and to enhance victim safety (Mazur and Aldrich 2002). This goal can conflict with the goal of efficiency. Accordingly, a study of a *felony* domestic violence court in Brooklyn found that case processing time increased after the specialized court opened (Newmark et al. 2001). With a single evaluation of a dedicated felony court, it is premature to generalize, but one might hypothesize that, in more serious cases, a specialized court may allow allocation of more time and resources to each case rather than expediting case processing.

Coordinated Response

A “coordinated community response” is a widely adopted formulation of what is needed to end domestic violence, rather than isolated efforts by victim advocacy organizations, prevention programs, child welfare agencies, law enforcement, courts and other organizations that may encounter victims and offenders (Pence and Shepard 1999). A coordinated criminal justice response is an essential component. A domestic violence court is both dependent upon and facilitates interagency coordination around the goals of victim safety and offender accountability. Because domestic violence court goals include aims related to both victims and offenders, coordination typically goes beyond law enforcement, prosecutors, and probation departments to include independent victim service organizations, batterer programs, and other service providers (Harrell et al. 2007; Henning and Klesges 1999; Mazur and Aldrich 2002; Newmark et al. 2001).

Coordination among these partners in the response to domestic violence often begins during the process of planning a domestic violence court (Eckberg and Podkpacz 2002; Steketee et al. 2000). Planning teams may evolve into a steering committee or other stakeholder group that meets regularly after the domestic violence court opens (Harrell et al. 2007; Henning and Klesges 1999; Newmark et al. 2001). Meetings may be held with regularity and can focus on troubleshooting problems that emerge, developing policies, assessing needs, and sharing information about programs and initiatives of the different agencies that can have an impact on the court or other partners (Harrell et al. 2007; Macleod and Weber 2000; Newmark et al. 2001; Sack 2002; Tsai 2000). Several process evaluations suggest that interagency coordination facilitates the linking of victims to services, information sharing by probation and community-based programs with judges, the development of better evidence for the prosecution, and increased stakeholder confidence (Gover 2007; Harrell et al. 2007; Henning and Klesges 1999; Newmark et al. 2001; Weber 2000).

Dedicated Staff and Informed Decision Making

According to one study, a benefit of a specialized court with a dedicated judge is that the judge becomes more familiar with the parties and facts of the case (MacLeod and Weber 2000). Court staff, prosecutors, defense attorney and agencies that deal with batterers and victims of domestic violence observe that these cases pose unique challenges and require special knowledge and expertise. In interviews, stakeholders have noted that judicial decisions in domestic violence may be improved through training and intensive experience (Henning and Klesges 1999; Steketee et al. 2000).

Besides the judge, some domestic violence courts are staffed by project or resource coordinators, victim advocates, and specialized or dedicated probation officers and prosecutors (Keilitz 2000; Peterson 2004; Sack 2002). Among other functions, these partners may facilitate the sharing of case information, a task that is more challenging when domestic violence cases are spread throughout the courthouse across many calendars rather than allocated to a dedicated court. A number of descriptive studies suggest that the use of dedicated staff members may enhance the understanding of unique issues in cases among attorneys, probation officers, and service providers, improving the quality of their decisions and their interactions with or support of the court (Keilitz 2001; Steketee et al. 2000; MacLeod and Weber 2000).

Victim Services

Many domestic violence courts place advocates from victim service agencies or victim/witness counselors employed by the prosecutor's office in the courthouse or directly in the domestic violence court. Typically, advocates offer victims support throughout court proceedings, including court accompaniment, assistance with safety planning, linkage to other community resources, and legal information and case updates (Bell and Goodman 2001; Gover 2007; Newmark et al. 2001). With victim consent, advocates may inform the prosecutor or court of any violations of court orders that involve the victim. Some courts also expect that the provision of services will encourage victim participation in the prosecution (Smith 2001).

A domestic violence court may advance the goal of victim safety to the extent that a specialized court makes it easier for advocates to connect with victims. The literature to date confirms this outcome (Harrell et al. 2007; Henning and Klesges 1999; Newmark et al. 2001). For instance, the percent of victims linked to advocates rose from 55% to 100% after the Brooklyn felony domestic violence court opened (Newmark et al. 2001) and from almost none to 56% after the Shelby (TN) domestic violence court opened (Henning and Klesges 1999).

Researchers have investigated victims' perceptions of the fairness of case processing in domestic violence courts as compared to general criminal courts. The assumption has been that victims who are more satisfied with how the case is handled will be more cooperative with prosecution and more willing to use the criminal justice system if the defendant assaults them again. Of the five studies that have looked at this issue, four found that victims were more satisfied with the process in a domestic violence court than in a non-specialized court (Eckberg and Podkopacz 2002; Gover 2007; Gover, MacDonald, and Alpert 2003; Hotaling and Buzawa 2003; for the one study that did not find this reaction, see Davis et al. 2001). In particular, victims felt that they were treated fairly (Eckberg 2002; Harrell et al. 2007; Henning and Klesges 1999) and that the judge cared about and understood the victim's situation (Eckberg 2002; Harrell et al. 2007). They were also satisfied with the assistance received from victim advocates (Harrell et al. 2007; Hotaling and Buzawa 2003). Nonetheless, one study within reported that 40% of victims still found the court experience embarrassing and indicated that they would not return to court if they experienced another incident of domestic violence (Hotaling and Buzawa 2003). Furthermore, the more positive perceptions of the court process did not necessarily translate into a sense of increased safety (Visher et al. 2008). The researchers attributed this reaction to substantial unmet needs (e.g., for employment, supportive social networks, and intensive crisis services) that exceeded the assistance that victim advocates working with the domestic violence court could provide.

Offender Accountability

In theory, offender accountability can be defined simply as holding perpetrators responsible for their actions. In practice, accountability is a complex concept with many potential implications. It might entail the prosecution of a higher percentage of domestic violence arrests and a higher conviction rate. On these types of measures, the literature is mixed. Three studies linked the implementation of specialized domestic violence courts to increased conviction rates (Goldkamp et al. 1996; Davis et al. 2001; Eckberg and Podkopacz 2002), whereas three other studies found no significant relationship to conviction rates (Angene 2000; Newmark 2001; Peterson 2004).

Post-conviction, accountability can be taken to entail more severe sentences such as jail or prison. In jurisdictions that do not have mandatory sentencing laws, different domestic violence courts have been associated with both a greater (Ursel and Brickey 1996, Quann 2007; Visher et al. 2008) and a lesser (Davis et al. 2001; Peterson 2004) use of jail sentences than traditional courts. Across multiple studies, there is widespread agreement that domestic violence courts lead to an increased use of batterer programs, substance abuse treatment, and other programs, as well as increased special bail conditions, drug testing, intensive probation, and judicial status hearings (Angene 2000; Gondolf 1998; Harrell et al. 2007; Newmark et al. 2001).

Another definition of accountability is the imposition of swift and certain sanctions in response to noncompliance with program mandates, probation, or other sentencing conditions (Frank 2006; Harrell et al. 2007; Labriola et al. 2007; Mazur and Aldrich 2002). Recently, domestic violence courts have become more involved in this form of accountability through greater use of compliance review hearings, a practice studied in the Judicial Oversight Demonstration Project (Harrell et al. 2007). In addition to the “Judicial Oversight Demonstration” in Ann Arbor, Dorchester, and Milwaukee, studies of the Brooklyn and San Diego domestic violence courts confirmed that judicial monitoring significantly increased the likelihood and severity of penalties for noncompliance with sentencing conditions (Angene 2000; Harrell et al. 2006; Harrell et al. 2007; Newmark et al. 2001).

Intensive probation monitoring through a special domestic violence unit has sometimes accompanied the development of a domestic violence court, although such units have also been adopted in the absence of a specialized court. Both the Judicial Oversight Demonstration Project and a study in Rhode Island by Klein and Crowe (2008) found a decreased rate of new offenses, with Harrell et al. (2006) attributing it to incarceration and incapacitation when probation was revoked, and Klein and Crowe attributing it to secondary prevention through frequent contacts with victims and offenders.

Recidivism

A central goal of the domestic violence courts and a component of victim safety is to reduce recidivism. To our knowledge, 10 domestic violence courts have been evaluated utilizing quasi-experimental methods. Findings were that three produced significant reductions in re-arrests on most measures (Angene 2000; Gover et al. 2003; Harrell et al. 2007), five produced no reductions or increases in recidivism (Harrell et al. 2007; Henning and Kesges 1999; Newmark

et al. 2001; Peterson 2004; Quann 2007), and two separate studies of Milwaukee domestic violence courts yielded mixed results.³

A reduction in recidivism could be a result of therapeutic treatment or deterrence mechanisms. The most recent reviews conclude that batterer programs, the primary treatment mechanism used by domestic violence courts, produce no or extremely modest effects (e.g., Babcock et al. 2004; Bennett and Williams 2004; Feder and Wilson 2005; Peterson 2008). Domestic violence courts might still reduce recidivism through the deterrent effects of increased monitoring and consequences for noncompliance, however. Few studies have been conducted regarding the effectiveness of these mechanisms, and even fewer have used an experimental or rigorous quasi-experimental design. A quasi-experiment conducted in the Bronx found no significant difference in re-offending rates between offenders who were mandated to judicial monitoring and those who were not (Rempel, Labriola, and Davis 2008). The authors noted, however, that the Bronx court did not implement a strong form of judicial monitoring, that court appearances were monthly at most, that judicial interactions with the offenders were neither clear nor probing, and that sanctions were not consistently imposed for noncompliance. They interpret the findings to indicate that mere “surveillance” does not appear to reduce recidivism, leaving open the question of whether a truly rigorous form of judicial supervision might have positive effects.

Summary

The principal aim of this study is to provide an accurate portrait of today’s domestic violence courts, describing what they are doing as opposed to whether they are working. Four previous efforts, two with a national scope, found that domestic violence courts are diverse, embodying an array of priorities, policies, and practices (Keilitz 2001; MacLeod and Weber 2000; Puffett and Gavin 2007; Shelton 2007). These studies found that the number of domestic violence courts doubled in six years. Perhaps precisely because of the diversity and newness, previous studies that have sought to measure their impact—on case processing, sentencing, recidivism, and other outcomes—have not always yielded consistent findings.

The literature does suggest that domestic violence courts expedite processing of misdemeanor cases. Findings suggest that victims are more satisfied and more likely to access services if a case is heard in a domestic violence court rather than a traditional court. These courts also appear to make greater use than non-specialized courts of several potential accountability mechanisms: program mandates, judicial monitoring, intensive probation, and penalties for noncompliance with court orders to programs. Yet, only a handful of studies have rigorously examined any of these features of domestic violence courts.

Because the domestic violence court intervention itself varies from site to site, it is premature to focus on outcomes generically (e.g., for recidivism). Before we can ascertain which specific

³ The first such study yielded positive raw differences in re-arrest rates and victim reports of re-abuse, but the effect sizes were small and not statistically significant (Davis et al. 2001). In the second, Harrell et al. (2006) found that the domestic violence court reduced the one-year re-arrest rate; but this reduction occurred not because the offenders were less likely to commit new crimes when “at risk” (i.e., living in the community), but because the offenders were more likely to be re-incarcerated on probation revocations. This is essentially a positive impact of the domestic violence court, but qualified in that the impact depended solely upon enforcement.

policies and practices produce such reductions and which do not, we need to know much more about how the courts operate and about the variations in how common policies are implemented. Our focus here, therefore, is not on whether domestic violence courts achieve specific goals, but on how, why, and in what context their operations are likely to vary as a necessary preliminary step before we can examine their effects.

Chapter 3

Research Design

This study was designed to provide a comprehensive portrait of criminal domestic violence courts nationwide. The study explores court goals, policies, and practices, as well as the knowledge, beliefs, practical resources, and constraints underlying these practices. Criminal domestic violence courts were defined as courts with a separate calendar or one or more dedicated judges for handling domestic violence cases (misdemeanor, felony, or both). Criminal courts that exclusively issue civil protection orders were not included, but we did include “integrated” domestic violence courts that deal with both criminal and family matters. In these instances, we retained our focus on the handling of the criminal cases.

This delimitation is slightly different from previous comparable research (Shelton 2007; Keilitz 2000; Macleod and Weber 2000). The prior studies included civil order of protection courts and/or general jurisdiction criminal courts that had court-wide policies for issuing orders of protection in domestic violence cases or a prosecutor’s office that had a specialized domestic violence unit. Our rationale was that there is a need to investigate the trend of establishing *specialized criminal courts* (see chapter 1). We were interested in determining how many of these courts have been established nationwide, why different stakeholders believe that a specialized approach to domestic violence cases is necessary or helpful, and what policies have been implemented in connection with this structural development.

Mixed Methods Design

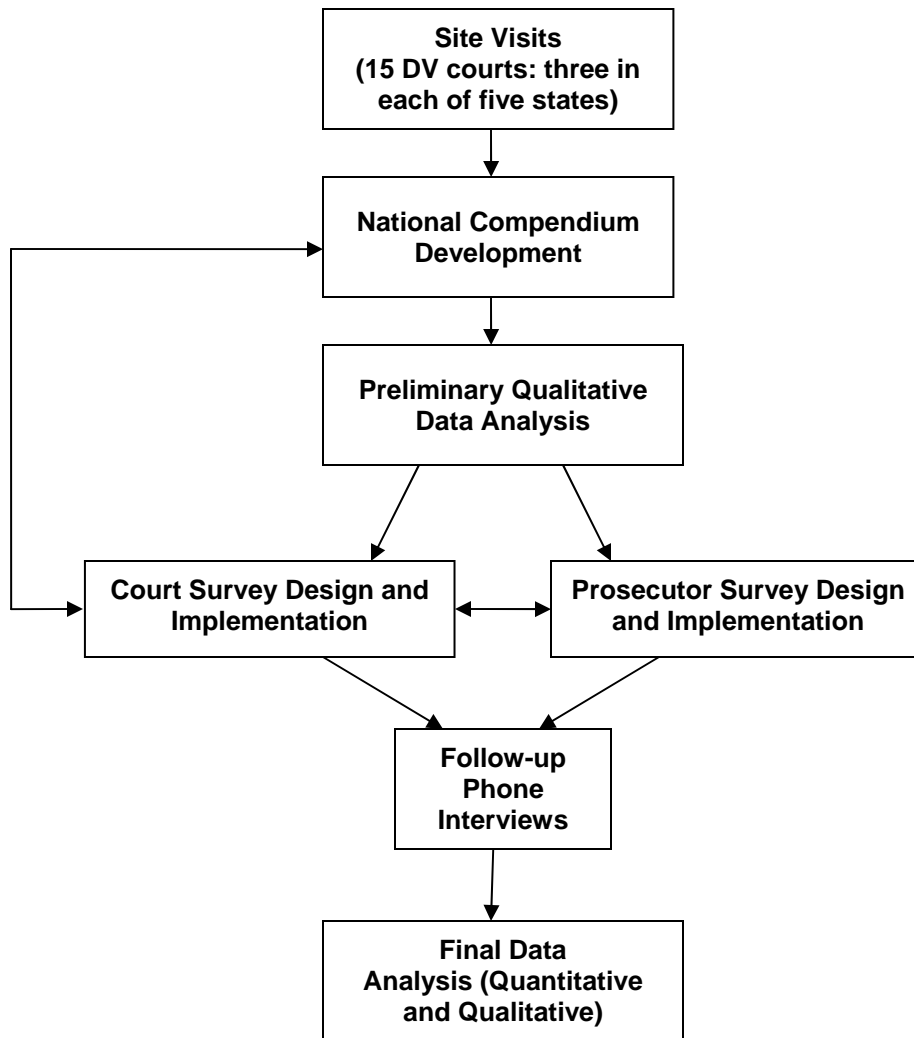
Mixed method designs have the capacity to provide both scope (quantitative) and depth (qualitative). Data collection unfolded in four phases: in-depth site visits with a purposeful sample of established courts, development of a national compendium of domestic violence courts, a survey of domestic violence courts and connected prosecutor offices, and follow-up telephone interviews with select courts. The results at each step informed data collection in the next. In the case of the compendium and construction of the court and prosecutor surveys, the strategies overlapped and formed a reiterative process (see figure 3.1).

Site Visits

Sampling Frame

The study began with visits to 15 domestic violence courts, three in each of five states. The site visit sample was developed through the purposive recruitment of well established courts. The sites were selected according to five criteria: (1) representation of four regions of the US (Northeast, Midwest, South, West), (2) willingness of court staff to facilitate multiple stakeholder interviews and courtroom observation, (3) length of time the court had been in operation, (4) state context (i.e., states with a statewide effort to establish domestic violence courts were preferred), and (5) variation in court policies.

Figure 3.1. Multi-Phase Research Design



Our selection criteria yielded a small pool of potential sites. New York and California were the first two states selected, partly due to preexisting contacts with the research team, but primarily because they were already known to have the largest number of criminal domestic violence courts. The sample also included three courts each in Illinois, Florida, and Washington State. Specific courts were selected with assistance from a statewide coordinator or key informants from each state’s court system keeping under consideration of our interest in a sample that would include diverse domestic violence court models and practices. It should be noted that observations from the site visits reflect a snapshot of the courts at the time of data collection, and that both the daily practices as well as stated opinions of stakeholders at the courts may change over time.

Interview Protocols

We sought to interview as diverse range of stakeholders at each site. Prior to site visits, the research team established a point person at each site and attempted to schedule interviews with at least one representative of affiliated community-based agencies (e.g., victim assistance agencies or batterer program staff) or role within the justice system (e.g., judges, prosecutors, defense attorneys, and court staff). Our final sample included 123 interviews with nine types of stakeholders, as follows:

- Thirty-one prosecutors
- Twenty victim advocates
- Nineteen domestic violence court judges
- Thirteen defense attorneys
- Eleven administrators at nonprofit organizations working directly with the court
- Ten probation officers
- Eight batterer program representatives
- Eight court-based staff (project managers, resource coordinators, and clerks)
- Three police officers

In our interviews with domestic violence court judges and staff, we first asked for a walk through of a typical domestic violence case from eligibility screening through sentencing, followed by questions to elicit information across nine domains:

1. Court Background Information (history and organization)
2. Goals and Objectives
3. Predisposition Policies
4. Programs for Offenders
5. Defendant Compliance Monitoring
6. Victim Safety
7. Stakeholders and Partnerships
8. Training
9. Problems and Successes

In interviewing prosecutors, we followed a slightly modified protocol with the following added domains:

10. prosecutorial strategies,
11. case assessment,
12. victim involvement in prosecution, and
13. disposition and sentencing.

Other types of interviewees were asked to focus on background information, their personal role or the role of their organization in the domestic violence court, how working in the specialized court has affected their responsibilities, and perceived differences between addressing domestic violence in a general criminal court versus a domestic violence court. When appropriate, interview respondents were invited to discuss the goals and evolution of the court, the current cultural context of the court, and successes and challenges. Appendix A is our umbrella interview protocol, with the sections for specific stakeholders omitted.

Courtroom Observation Protocols

Courtroom observation protocols were adapted from previous studies conducted by members of the research team. These included protocols used in two studies of domestic violence courts (Cissner, Bradley, and Puffett 2009; Gavin and Puffett 2007) and a general approach to multisite courtroom observations that was developed for a nationwide study of adult drug courts in which one of the current principals is a partner (see National Institute of Justice 2009). The purpose was to collect firsthand data at each site regarding the following court characteristics:

- Number of cases appearing before a domestic violence court judge in a typical court day;
- Average length of individual appearances;
- Typical criminal charges of defendants appearing in the domestic violence court;
- Typical status of defendants who appeared (e.g., “in custody” or “not in custody”);
- Types of interactions between the judge and the defendant; and
- Most common dispositions, sentences, and responses to noncompliance.

One observation form was used to record key events for each court appearance that was observed, and a second form was used to report summary information (e.g., total number of cases) and general courtroom characteristics (e.g., existence of a separate waiting room, organization of the cases, and type of session observed—criminal or compliance).

Site Visit Implementation

Site visits were conducted between February and November 2007. Most visits involved two members of the research team traveling to the site for two to three days (two sites were visited by a single researcher) and conducting interviews and observations. Wherever possible, interviews were audiotaped. Detailed notes were taken. Teams recorded interviews and observation data in data sheets that could be used for analysis during later phases of the study. For detailed qualitative information, teams also completed a narrative that involved answering set questions about what was learned during the visit.

Domestic Violence Court Compendium

We sought to identify the names, locations, and contact information for all the criminal domestic violence courts. The compendium was developed as a product of the research in its own right,⁴ as well as a tool for developing the sample for the surveys. This effort began at the outset of the research period (January-July 2007) and continued concurrently with site visits and early survey development and distribution. Compendium development involved four strategies:

⁴ The final published compendium will include names and addresses of all courts that could be confirmed as domestic violence courts according to our definition (dedicated judge or separate calendar/docket) with the purpose of providing court practitioners with a national networking resource. The published compendium will include all survey respondents that confirmed they were domestic violence courts and exclude all those that responded they were not a domestic violence (see table 3.1.). It will also include all those that could be confirmed as domestic violence courts through follow-up contact with non-responding courts. The published compendium includes 208 courts in 32 states and the territory of Guam.

1. Previous Research: drawing on the list of courts identified in two previous studies (Keilitz 2001; Shelton 2007); we verified their current status and eliminated courts that did not meet our criteria (42 of the 103 respondents to Keilitz' survey met our criteria in 2001).
2. Administrative Court Offices in each state were contacted and asked to provide the names of and contact information for any domestic violence courts in their state.
3. State Domestic Violence Coalitions were contacted for any information regarding domestic violence courts in their state.
4. Internet research was used to identify eligible courts as well as to follow up on information received from the administrative court offices and domestic violence coalitions.

The final survey sample included 338 courts in 45 states. Table 3.1 below includes four columns displaying the following information from left to right: (1) total number of courts in the survey sample, (2) of those courts sampled, number that responded, (3) response rate as a percentage, and (4) percentage of *responding courts* that met our definition of a domestic violence court.

The compendium also included a list of prosecutors working in specialized domestic violence courts. Strategies for developing the prosecutor compendium differed slightly from those used to develop the list of courts. In particular, we postponed development of the prosecutor compendium until after sending out the first few waves of the court survey. Court survey respondents were asked to provide contact information for the prosecutor offices working with their court. This strategy yielded contact information for 128 of 129 courts that both responded to the court survey *and* confirmed that they operated a criminal domestic violence court according to our definition. This information was then supplemented by internet research and follow-up phone calls to prosecutors within the jurisdiction of the courts identified in the court compendium that did not respond to the survey. We also conducted calls to prosecutors within the jurisdictions of courts identified in the compendium that responded to the survey but reported *not being a domestic violence court* because they might have been working in a domestic violence court elsewhere. The final prosecutor survey included 275 prosecutors in 42 states (see table 3.2 below). Table 3.2. follows the same column format as described in Table 3.1.

Table 3.1. Final Court Survey Sample by Region and State and Response Rate (N=338)

	Number Identified	Number that Responded	Survey Response Rate	% of Respondents that have DV Courts
Northeast	91	61	67%	91%
New York	66	53	80%	100%
Connecticut	8	1	13%	100%
Maine	6	3	50%	0%
Pennsylvania	4	2	50%	0%
New Hampshire	2	1	50%	100%
Massachusetts	3	1	33%	100%
Rhode Island	1	1	100%	0%
Vermont	1	0	0%	0%
South	89	41	46%	54%
Florida	24	11	46%	36%
North Carolina	16	10	63%	60%
Alabama	17	5	29%	80%
Texas	10	3	30%	100%
Delaware	6	0	0%	0%
Oklahoma	5	5	100%	20%
Virginia	3	1	33%	100%
West Virginia	2	1	50%	0%
Kentucky	1	1	100%	100%
Maryland	1	0	0%	0%
South Carolina	1	1	100%	100%
Tennessee	1	1	100%	0%
Georgia	1	1	100%	0%
Washington D.C.	1	1	100%	100%
Midwest	48	27	56%	44%
Michigan	18	11	61%	82%
Illinois	12	6	50%	83%
Iowa	7	4	57%	0%
Indiana	5	2	40%	0%
Ohio	3	2	67%	0%
Minnesota	2	1	50%	0%
South Dakota	1	1	100%	0%
West	110	59	54%	59%
California	34	20	59%	100%
Washington	24	14	58%	36%
New Mexico	12	6	50%	33%
Arizona	6	2	33%	50%
Utah	6	3	50%	33%
Nevada	7	4	57%	0%
Kansas	4	2	50%	50%
Hawaii	4	1	25%	100%
Colorado	3	3	100%	0%
Oregon	3	2	67%	100%
Idaho	2	1	50%	100%
Wisconsin	2	1	50%	100%
Alaska	1	0	0%	0%
Wyoming	1	0	0%	0%
Other	1	1	100%	100%
Guam	1	1	100%	100%
Total	338	188	56%	64%

Table 3.2. Final Prosecutor Sample by Region and State and Response Rate (N=275)

	Number Identified	Number that Responded	Survey Response Rate	% of Respondents that are associated with DV Courts
Northeast	79	27	34%	25%
New York	57	17	30%	100%
Connecticut	8	5	63%	100%
Maine	4	0	0%	0%
Pennsylvania	4	3	75%	0%
New Hampshire	2	1	50%	0%
Massachusetts	2	1	50%	0%
Rhode Island	1	0	0%	0%
Vermont	1	0	0%	0%
South	73	29	40%	44%
Florida	17	7	41%	57%
North Carolina	15	8	53%	63%
Alabama	13	3	23%	0%
Texas	9	4	44%	100%
Delaware	4	1	25%	0%
Oklahoma	5	1	20%	0%
Virginia	3	1	33%	100%
West Virginia	1	0	0%	0%
Kentucky	1	1	100%	100%
Maryland	1	1	100%	100%
South Carolina	1	1	100%	100%
Tennessee	1	1	100%	0%
Georgia	1	0	0%	0%
Washington D.C.	1	0	0%	0%
Midwest	42	20	48%	57%
Michigan	14	7	50%	100%
Illinois	12	8	67%	100%
Iowa	7	3	43%	0%
Indiana	5	1	20%	100%
Ohio	1	1	100%	100%
Minnesota	2	0	0%	0%
South Dakota	1	0	0%	0%
West	85	45	53%	50%
California	18	15	83%	60%
Washington	23	9	39%	22%
New Mexico	11	4	36%	0%
Arizona	4	2	50%	100%
Utah	6	2	33%	50%
Nevada	5	4	80%	0%
Kansas	4	1	25%	100%
Hawaii	4	1	25%	100%
Colorado	2	2	100%	0%
Oregon	3	3	100%	66%
Idaho	2	1	50%	100%
Wisconsin	1	1	100%	0%
Alaska	0	0	--	0%
Wyoming	1	0	0%	0%
Other	1	1	100%	100%
Guam	1	1	100%	100%
Total	275	122	44%	61%

Survey Design

Both the prosecutor and court surveys were developed by the Center for Court Innovation, with feedback from the California Administrative Office of the Courts and our independent research consultant (Chris S. O'Sullivan). The goal for both surveys was to paint as complete a picture as possible of criminal domestic violence courts, including objective characteristics (e.g., court structure, staffing, and key policies) and stakeholder perceptions on court goals and practices. The court survey was designed first, with the expectation that a judge or coordinator with first-hand knowledge of the court's structure and practices would be the respondent (see Appendix D). We specifically stated in the cover letter to the courts that it would be most helpful if someone with the most knowledge of the domestic violence court responded.

Our rationale for developing a separate prosecutor survey sprang from the historically crucial role that prosecutors have played in many domestic violence courts, as described in earlier multisite research (Gavin and Puffett 2007; Keilitz 2001). The prosecutor survey repeated many of the questions from the court survey (e.g., goals of the court, common sentences for convicted offenders). The prosecutor survey excluded questions concerning daily operations and added questions about the prosecution of domestic violence cases, influence of the prosecutor, and the prosecutor's use of strategies commonly seen in domestic violence courts, such as vertical and evidence-based prosecution. We also asked a number of questions related to victim advocacy; we expected that the prosecutor would be in the best position to answer a number of questions related to victim advocacy since many prosecutors' offices employ victim advocates and/or work with advocates from outside agencies. (See Appendix E.)

Qualitative data collected during site visits also influenced the construction of both surveys. For instance, analysis of site visit data revealed that courts and prosecutors faced some common challenges, such as providing services to victims and successful prosecution of cases. As a result, we made certain to address these issues in both surveys. On the other hand, it became clear during site visits that most respondents would not be able to answer questions about the evolution of the court and stakeholder oversight of domestic violence courts. In many of the courts we visited, original stakeholders involved in court planning were no longer involved in the court, and regular stakeholder meetings were not common. Therefore, we did not include a domain looking at court evolution in the court survey as originally planned.

Three other concerns influenced the survey design. First, we wanted to ensure that the questions were written in language shared by domestic violence court professionals nationwide. Several practitioners and legal professionals on our team guided discussions of question wording, leading the group toward greater clarity and comprehensibility of terms. Second, because of the influence of state level statutes on the operations of domestic violence courts in several states, we explored the role of domestic violence state statutes and regulations across several of our survey domains, including questions on the impact of state regulations on charge eligibility, sentencing, and prosecution. Finally, we sought to minimize the effect of a low response rate on the validity of our results. To address this third concern, we made a concerted effort to minimize the length and complexity of both surveys.

Follow-up Phone Interviews

After performing an initial, descriptive analysis of the survey results, we conducted follow-up phone interviews with a select group of domestic violence courts as described below (N = 16). These interviews served two functions. First, they enabled us to check our interpretations of survey responses against the realities of court practice, as revealed through a more interactive exchange that allowed for follow-up probes whenever the initial questions or responses were ambiguous. Second, much like the site visits, the phone interviews provided a valuable source of qualitative data about the operations of additional domestic violence courts.

The sixteen courts were selected from among those that (1) were *not* selected for site visits and (2) provided a range of answers regarding goals, victim services, and case processing practices. In particular, we probed for further information regarding practices and policies that were adopted by the court to achieve the various goals they ranked as extremely important. We also sought additional information about the courts' use of assessments of offenders and program mandates. Interviews took approximately 45 minutes and were conducted with judges, project directors, and prosecutors.

Survey Implementation

Court Survey

The court survey was distributed in multiple waves beginning in January 2008. We began by mailing letters (Appendix F) to all courts in the compendium, providing each respondent with a unique Court ID and password and requesting that they respond to the online survey. The letter also provided respondents with contact information if they wished to ask questions or request a paper survey. There are several advantages to having a survey completed in an online format, including reduction of human error due to automated skip patterns and the efficient download and transfer of data (i.e., no manual data entry). After one month, during which a reminder postcard was mailed to survey recipients, this initial effort yielded a low response rate (10%).

We followed up with a paper survey mailing in March of 2008. This mailing yielded better results, and the overall response rate reached 47% by the end of April 2008. Follow-up phone calls to non-responders were made in May of 2008, and a second wave of paper surveys was mailed in June 2008. Our final response rate reached 56% by August 2008.⁵ Response rates are displayed by region and state in table 3.1 above.

For the analysis, the final court sample included all courts that both responded to the survey (n = 188) and met our definition of a domestic violence court (n = 129, with at least one court from each of 28 states).

It was notable that 31% of responding courts (59 of 188) did not meet our minimal definition of a domestic violence court: specialized calendar or dedicated judge with either criterion qualifying

⁵ By comparison, a 2004 national survey of adult drug courts yielded a response rate of 64%, only slightly higher (Zweig and Rossman 2009), even though drug courts are a far more centralized type of specialized court, with a greater likelihood of employing a dedicated project coordinator and hence having a clear contact person within the courthouse.

for inclusion. We assume that some of the information we received in developing the compendium was simply inaccurate (e.g., informants were incorrect in believing that certain jurisdictions had implemented criminal domestic violence courts). It is also possible that our initial compendium inadvertently captured some sites with specialized civil courts or uniform policies for processing criminal domestic violence cases (e.g., uniform order of protection policies, specialized prosecution units, or standard approaches to sentencing), implemented without a specialized calendar. As discussed earlier in the chapter, we had a range of information sources contributing to compendium development and survey sample construction. In an effort to identify as many domestic violence courts as possible, we sent surveys to every court identified regardless of referral source. Table 3.3 shows the number of courts that were identified by each of five common referral sources as follows:

1. Key Informant: Respondent was referred by an individual with statewide knowledge of domestic violence courts, such as a statewide problem-solving court coordinator or domestic violence court judge;
2. Internet
3. Court Administrator: Respondent was identified through a conversation with a state court administrator or local court clerk;
4. Domestic Violence Court Literature: Respondent was identified in the previous literature (e.g., Keilitz 2001); and
5. Statewide Domestic Violence Coalition: Respondent was identified by the statewide domestic violence coalition.

As Table 3.3 suggests, some referral sources ultimately proved more reliable than did others. (Although it appears from the table that key informants provided the most reliable information, it turned out that was the case only in New York and California, which have the most domestic violence courts and where the researchers are based.)

Table 3.3. Number of Court Survey Respondents Referred by Five Common Source Types and Percentage that Report Having A DV Court (N=188)

Source Type	Number of Respondents Referred by this Source Type	% of Respondents that Reported having a DV Court
Key Informant	94	90%
Previous Literature	64	50%
Court Administrator	15	47%
Internet	10	40%
DV Coalition	5	20%
Total	188	69%

Prosecutor Survey

As discussed previously, implementation of the prosecutor survey was delayed until after we had completed several waves of the court survey since court respondents were asked to provide correct contact information for the prosecutor working in their domestic violence court. We distributed the first wave of prosecutor surveys in July 2008, beginning with those prosecutors for whom we had received contact information from court respondents. Prosecutors were not given the option of completing the survey online, as this method of administration had yielded such a low response rate from courts. Instead, the first wave of surveys was mailed, accompanied by an introductory letter similar to the letter mailed to court respondents (Appendix G).

One month after the first mailing, the response rate for prosecutor surveys was approximately 18%. As with the court survey, follow-up phone calls were made to non-responders approximately one month after initial distribution and a second wave of paper surveys was sent, both to the non-responders from the first wave and to prosecutors in the compendium that were not linked to a responding court. Our final response rate for the prosecutor survey, calculated after three months from the initial distribution, at the end of September, 2008, was 44%. Response rates are displayed by region and state in Table 3.2 above.

We theorized that there might be several reasons for the significantly lower final response rate for prosecutors than for courts:

1. Unlike many of our court respondents, statewide contact information was unavailable for prosecutors' offices. In cases where courts did not respond with information about prosecutors working in their court, our only available strategy was internet research. In many jurisdictions where we did not have a contact name at the prosecutor's offices, we expected that whoever first opened our survey inquiry would route it to the appropriate individual to be completed. It is likely that this did not happen as often as it did with the court survey, when there was a domestic violence court judge or project coordinator as an obvious target for our mailing.
2. Prosecutor surveys were sent in two waves rather than three and the response turnaround time was shorter for this survey.

For the analysis, the final prosecutor sample included all prosecutors who both responded to the survey and reported having a dedicated domestic violence court in their jurisdiction. The final prosecutor sample included 74 respondents representing 22 states. Given the low response rate for prosecutors, we analyzed only the court survey responses for some of the survey questions that were on both the court survey and the prosecutor survey and that concerned with court policy. Prosecutor surveys were used to examine broad perceptions (e.g., goals of the domestic violence court) and prosecutor-specific issues (e.g., prosecution strategies, victim services provided by the prosecutor's office, and coordination with other victim services agencies).

Analytic Plan

Quantitative Methods

The primary purpose of this study was not to evaluate the effectiveness of one or more components of domestic violence courts, nor was it to answer a guiding research question about the relationship between domestic violence court goals and policy features (although such relationships did comprise a secondary topic of interest). Mainly, we sought mainly to offer an updated and thorough portrait of the field as it exists today. Therefore, most of our analyses were descriptive, reporting percentages of respondents giving various answers to questions about goals, operations, and challenges to create a comprehensive national portrait of domestic violence court. The analyses reveal a degree of convergence or dissimilarity in the responses given across sites, and we were particularly focused on highlighting which court goals or policies reflected either a broad consensus or wide cross-site variation.

Of our final sample of 129 courts, 53 were located in New York State, 20 in California, nine in Michigan, and 57 elsewhere (with no other state home to more than six responding courts). Based on both the in-house knowledge that existed among practitioner team members and what we learned in the 15 site visits, we believed that certain domestic violence court goals and policies might reflect a statewide approach. Therefore, for every descriptive analysis conducted for the chapters that follow, we separately examined results by state (California, New York, Michigan, and other). We did not detect any discernible statewide patterns in Michigan (not even an apparent pattern that fell short of statistical significance); thus in all final analyses, we ultimately grouped Michigan into the “other state” category. In reporting our findings, whenever we detected a distinctive pattern for California or New York, we either noted it in the text or gave an actual breakdown of responses in our tables and figures. Hence, wherever such a breakdown is neither presented nor discussed, it can be inferred that there was not a state-specific pattern.

For some analyses, we pursued a secondary research interest in determining whether particular court policies were associated with community-level characteristics, court goals, or other court policy features. For these analyses, we were concerned that if we tested a large number of relationships, several would be likely to reach statistical significance due to chance or to a spurious relationship (i.e., an underlying variable correlated with both factors made it appear that there is a relationship). In theory, spurious relationships would be detectable through standard multivariate methods. Such methods were problematic, however, given our limited sample size. Accordingly, our general approach was to examine only a small number of independent variables in any given analysis, including only those that we had a strong rationale for connecting to our outcome of interest. For example, we might reasonably expect that rating goals related to victim services extremely important would predict such features as having a higher number of victim advocates or separate waiting areas for victims in the courthouse.

Once we selected independent variables for an analysis, we began by conducting simple bivariate correlations. We then generally proceeded to conduct partial correlations, controlling for only those factors that were significant in the bivariate analysis. In a few cases, we report results based on limited regression models. These were generally Ordinary Least Square models with five-point Likert-type scales as the dependent variable.

Specific relevant independent and dependent variables of interest are identified in each chapter, but in general, the following types of independent variables were considered:

1. State and Community context: As noted above, we examined the impact of the state in which the court is located (California, New York, Michigan, or other states, later collapsing Michigan into the “other” category) for every analysis in the report. We also conducted analyses with county-level census data to explore whether community demographics were associated with adopting particular policies in the local domestic violence court. In fact, none of the latter analyses showed significant relationships.
2. Court goals: The survey asked respondents to rate the importance of 13 goals for domestic violence courts (see chapter 4 for further details).
3. Mandatory Sentencing Requirements: This category included two important variables: 1) the *self-report* of courts as to whether there are specific sentences that are mandated by state law for convictions on domestic violence charges and 2) whether there are state statutes that require a batterer program as part of some or all domestic violence sentences. (The latter information was determined by research into state laws.)
4. Other court policies: This category included the kinds of cases that the domestic violence court hears (felonies, misdemeanors, ordinance violations, civil protection/restraining orders), whether the court uses a diversion model, use of program mandates and probation, and orders of protection.

Qualitative Methods

Site visit data were compiled in two formats: an Excel file for information that was quantitative or categorical (e.g., staffing, case volume, and check boxes from the structured observation forms) and a Word document for descriptions and discussion. Analysis involved generation of basic descriptive data from the Excel database and thematic coding of textual data. Analysis was an iterative process, and results were discussed in meetings of the entire team on several occasions. These meetings involved discussing the themes underlying the data and the implication of these themes for survey construction and reporting.

The qualitative data were compared to the quantitative data from the surveys to help with interpretation and to add a level of specificity and examples to quantitative findings. Our ultimate goal with the qualitative data from stakeholder interviews on site visits, phone interviews, and answers to open-ended questions in the surveys was to identify the themes and findings that emerged from systematic analysis. The responses were synthesized across sites and sources. Within each theme, we categorized the responses to detect meaningful differences across courts’ and stakeholders’ roles.

The Possibility of Non-Response Bias

With surveys of this nature, many respondents do not respond despite multiple reminders simply due to lack of time, interest, or other reasons. These sources of non-response would be unlikely

to cause systematic bias in the results. Bias in the results could occur, however, if there were a correlation between non-response and key outcomes of interest. Overall, we found that courts in New York were more likely to respond than courts located elsewhere ($p < .001$). We also found that prosecutors' offices in New York were *less* likely to respond compared to prosecutors' offices in other states ($p < .05$). Since we had already planned to investigate differences among several state groupings (California, New York, Michigan, and Other States), this potential bias was not problematic. We initially found variation in response rates by region (five dummy variables for Northeast, Midwest, South, West, and the one responding site in Guam), but these variations disappeared when we controlled for whether the court was in New York or some other state.

We then compared responders to non-responders on several types of county-level census characteristics. (For many of our courts and prosecutors, the jurisdiction of interest did not conform to county boundaries, but since we were often uncertain as to the exact jurisdictional boundaries, we used county level information as the best available proxy.) We detected few significant differences in response rates based on census characteristics, and those that we did find lacked any plausible meaning or cause for legitimate concern.⁶

⁶ The results indicated that non-responders to the court survey were significantly more likely than were responders to be located in counties where there is a lower high school graduation rate and a higher percentage of families living in poverty ($p < .05$). When analyzing the prosecutor survey responses, we found that prosecutor offices located in counties that had a larger population were more likely to respond to the survey than those located in counties with smaller populations ($p < .05$). In addition, prosecutor offices located in counties with a higher median household income were more likely to respond than prosecutor offices in counties with a lower median household income ($p < .05$). We cannot discern any reason why these factors might be associated with the probability of response. Additionally, our actual data analyses (as reported in chapters 4 through 9) did not detect notable impacts of county-level characteristics on the *nature* of our survey responses. As a practical matter, we consider these relationships to represent noise in the data that are extremely unlikely to present legitimate concerns.

Chapter 4

Domestic Violence Court Goals

For many specialized courts, establishing clear-cut goals can provide direction during the court's early operations and serve as a basis for evaluating performance (Cissner and Farole 2009). In our 15 site visits, we queried stakeholders about their perceptions of court goals and about the differences between hearing domestic violence cases in a specialized court and hearing them in a general criminal court. The site visit data were combined with investigator expertise and findings from previous studies to generate the following 13 goals, organized below within the seven categories that were introduced in chapter 1.

- Correct application of statutory requirements:
 1. *Apply statewide statutory requirements correctly and consistently.*
- Efficient case processing:
 2. *Increase efficiency of domestic violence case processing.*
- Informed decision making:
 3. *Foster expertise in those who handle domestic violence cases.*⁷
 4. *Promote increased consistency of domestic violence case dispositions and sentences [classifiable under correct application of state statutes as well].*
- Coordinated response:
 5. *Achieve a coordinated response to domestic violence.*
- Victim safety and services:
 6. *Increase victim safety [classifiable under recidivism reduction as well].*
 7. *Facilitate victim access to services.*
 8. *Improve victim perception of the fairness of the court process.*
- Offender accountability:
 9. *Hold offenders accountable for illegal behavior.*
 10. *Penalize offenders who are noncompliant with court orders.*
 11. *Increase community visibility of domestic violence as a social problem.*
- Recidivism reduction:
 12. *Rehabilitate offenders.*
 13. *Deter or prevent offender recidivism.*

⁷ The court survey asked whether fostering “expertise in judges or judicial officers” is a goal of the domestic violence court, whereas the prosecutor survey asked the equivalent question for fostering “expertise of prosecutors.” Courts may also seek to foster the expertise of prosecutors, public defenders, or other stakeholders.

These 13 goals were listed on the survey, and respondents were asked to rate each one on a four-point Likert scale whose categories were defined as follows: 0 = not relevant/not a goal of the domestic violence court, 1 = somewhat important, 2 = very important, and 3= extremely important.

In site visits and phone interviews, we also explored how court staff and stakeholders gave meaning to their goals and what strategies the courts were using to achieve them. This chapter will integrate the survey findings with illustrative site visit responses.

Major Survey Findings

Table 4.1 provides a complete breakdown of court responses for each of the 13 surveyed goals.⁸ As the table demonstrates, a majority of respondents tended to view each of these goals as important. In fact, more than 60% of respondents rated every single goal as very or extremely important, seeming to suggest that most domestic violence courts share a long list of priorities. However, as we had hoped when designing our response options, we observed significant differentiation once we isolated the “extremely important” rating.

Table 4.1. Court Respondents Ranking of Domestic Violence Court Goals (n=129)

	Not a Goal (%)	Somewhat Important Goal (%)	Very Important Goal (%)	Extremely Important Goal (%)
Increase Victim Safety	2%	1%	14%	83%
Hold Offenders Accountable for Illegal Behavior	3%	2%	16%	79%
Deter Offender Recidivism	4%	6%	21%	69%
Penalize Offenders	2%	9%	29%	60%
Facilitate Victim Access to Services	8%	7%	34%	51%
Apply Statewide Statutes Correctly and Consistently	12%	12%	32%	44%
Foster Expertise Among Judges or Judicial Officers	5%	14%	37%	45%
Increase Efficiency of DV Case Processing	5%	19%	36%	40%
Achieve a Coordinated Community Response to DV	5%	9%	47%	39%
Rehabilitate Offenders	19%	15%	29%	37%
Increase Consistency of DV Case Processing	6%	12%	50%	32%
Improve Victim Perceptions of Fairness in the Court	9%	18%	43%	30%
Increase Community Visibility of DV as a Social Problem	15%	22%	42%	21%

⁸ It is important to bear in mind that survey responses to questions about court goals represent the perceptions of the individual who completed it (domestic violence court judge, court coordinator, or whoever else might have answered the survey addressed to the court). Therefore, responses may or may not reflect official policy or a consensus among the all of the court’s stakeholders. The court survey asked respondents, “Please rank the importance of the following potential goals of handling domestic violence cases in a specialized court.” The prosecutor survey asked respondents, “What are the goals of your office in prosecuting cases in the domestic violence court?” Although the wording differed slightly, both items were intended to elicit ratings of the importance of each goal in the specific context of their domestic violence court.

Figures 4.1 and 4.2 display the percentages of court and prosecutor respondents, respectively, that rated each goal as extremely important. The results show that courts and prosecutors nationwide view domestic violence courts as sharing several primary goals, most notably victim safety and offender accountability. More than three-quarters of both samples rated these goals extremely important, with victim safety the single most commonly endorsed goal across both samples. Other goals that were viewed as extremely important by more than 50% of both the court and prosecutor samples were deterring recidivism, penalizing noncompliance, and facilitating victim access to services.

As the figures illustrate, the court and prosecutor respondents gave almost identical ratings to the different goals, despite the low number of prosecutor respondents (and wide confidence interval for their average responses). The two exceptions were that, although neither group showed strong support for the goal of offender rehabilitation, prosecutors were significantly less likely to view this goal as extremely important (27% vs. 37%) but were more likely to view facilitating victim access to services as extremely important (62% vs. 51%).

Figure 4.1. Domestic Violence Court Goals: Percentage of Court Survey Respondents Rating Each Goal as "Extremely Important" (N=129)

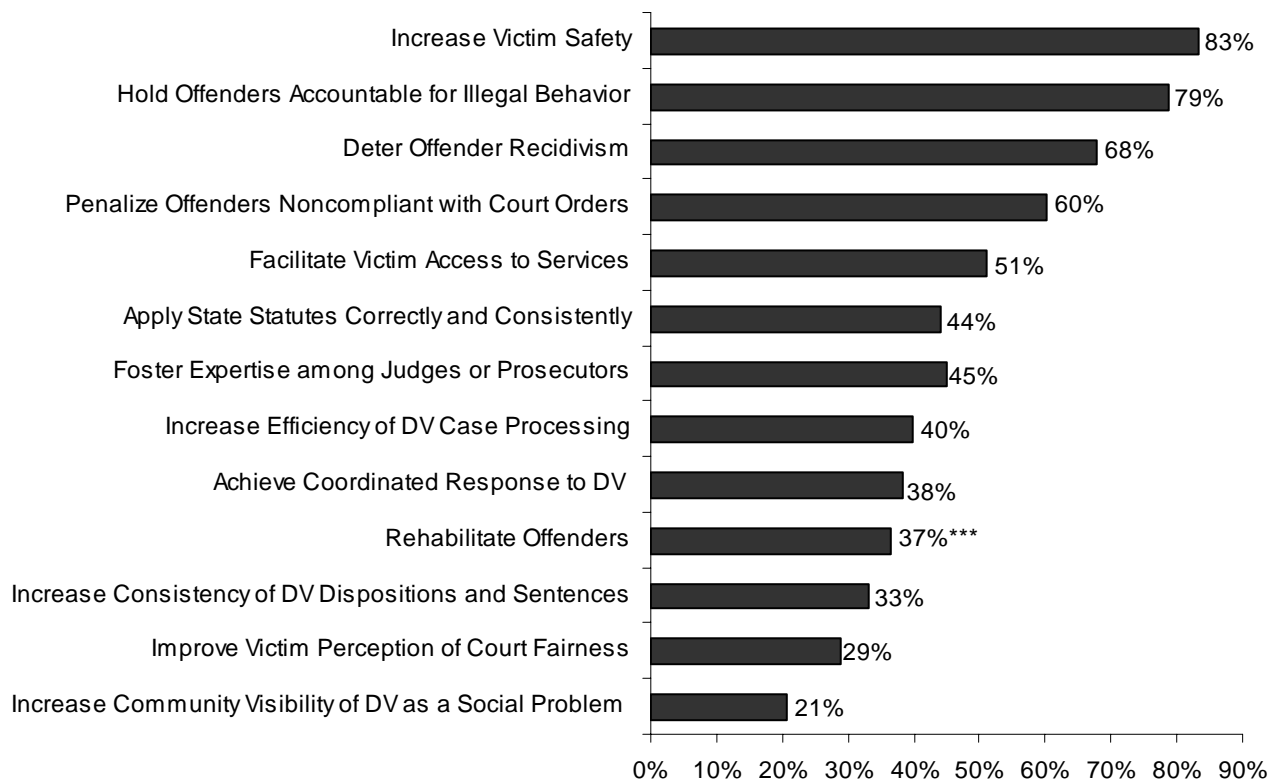
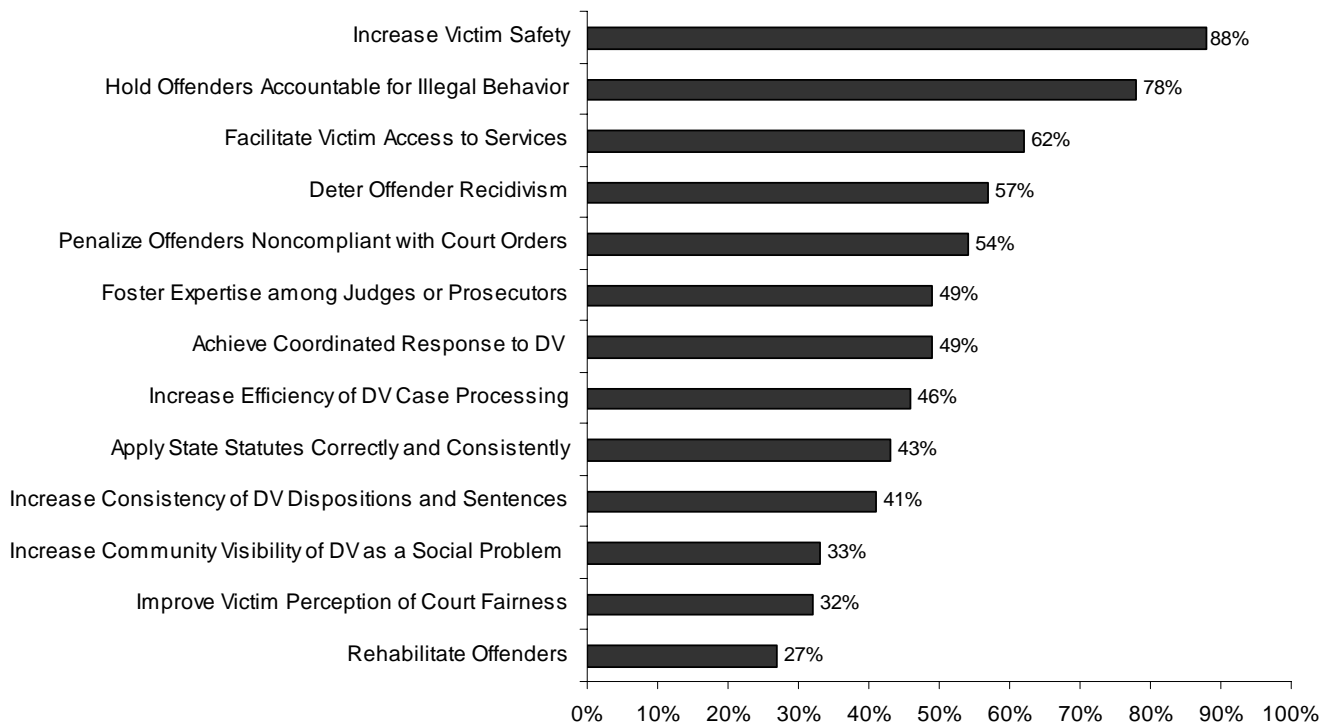


Figure 4.2. Percentage of Prosecutor Respondents Rating each Goal as "Extremely Important" (N=74)



In general, we found that variation in how goals were conceived was more a function of site-to-site differences than of state or other contextual factors. Whether the respondent was from California, New York, or other states did not significantly influence the ratings of 10 of the 13 goals. The three exceptions follow:

- Hold offenders accountable: Whereas 89% of court respondents from New York viewed accountability as extremely important, fewer respondents from other states rated it so highly: 67% from California and 70% from other states rated this goal extremely important ($p < .05$). When the rankings “very important” and “extremely important” were combined, 100% of respondents in New York, 91% of respondents in California, and 96% of respondents in other states, endorsed accountability as an important goal.
- Rehabilitate offenders: Whereas only 19% of court respondents from New York rated rehabilitation extremely important, 57% from California and 49% from other states gave it this highest rating ($p < .001$). In fact, respondents from New York selected rehabilitation least often of the 13 goals; it was tied for fourth among California’s respondents and fifth elsewhere. Evidently, the large number of New York courts substantially depressed the average level of support for rehabilitation that was found across the entire sample. With “very important” and “extremely important” combined, we still found that a minority of New York courts endorsed rehabilitation as an important goal (36%), while endorsement in California increased to 90% and in other states to 87%.

- Foster judicial expertise: About half of the court respondents from California and New York (52% and 54%, respectively) rated fostering expertise in judges or judicial officers as extremely important, compared to 39% from other states ($p < .05$). With the “very important” and “extremely important” responses combined, support for this goal increased among all three state groupings (California=86%, New York=85%, Other States=77%).

We lack data to explain New York’s polar opposite ratings of accountability (frequently rated as extremely important) and rehabilitation (infrequently rated as extremely important) as compared to other states. These ratings are consistent, however, with a prevalent perspective in New York that program mandates are not effective as rehabilitation but can serve as a mechanism of accountability, and that judicial monitoring and enforcement of mandates are a responsibility of domestic violence courts. The greater experience in New York and California may mean that these states have more developed models and have seen the development of expertise (Mazur and Aldrich 2002; Sack 2002).⁹

Other characteristics had little discernible impact on the ratings of goals. None of a series of community-level characteristics (e.g., population size and demographics) or aspects of court structure (e.g., age of court, staffing, or case volume) was significantly associated with respondent ratings of any of the 13 goals. It is quite possible that unobserved characteristics or dynamics played an important role, such as the content of local trainings, how different courts were planned and structured, and the influence of particular individuals who may have held particular views about what the goals should be.

Qualitative Findings on Court Goals and Priorities

High Priority Goals: Victim Safety and Offender Accountability

Victim Safety: In the survey, victim safety came closest to eliciting consensus, with 83% of court respondents and 88% of prosecutor respondents rating it as extremely important. Qualitative data illuminated what victim safety means to practitioners.

- In all 15 site visits, one or more interviewees linked victim safety to the use of victim services, including on-site advocacy and referrals to outside services such as shelters and counseling. In addition, several interviewees noted that dedicated victim advocates play a vital role in keeping victims informed of changes in the court case that may affect their safety. As one judge commented in a phone interview, “When the defendant doesn’t show and a bench warrant is issued, the victim advocate sends a notice to the victim.”

⁹ This view was routinely disseminated by technical assistance providers working under the auspices of the state Deputy Chief Administrative Judge for Court Operations and Planning. A similar philosophy is embodied in the “New York Model for Batterer Programs,” which is supported by the New York State Office for the Prevention of Domestic Violence (Frank 2008). It is also the case that the most recent batterer program experiment took place in the Bronx, NY (Labriola et al. 2008), and its null findings, as well as those in the previous batterer program experiments, were widely disseminated to domestic violence court judges in the state (Unified Court System 2005).

- The domestic violence courts' use of protection orders was also mentioned repeatedly in the context of victim safety. In one interview, a judge noted that specialized probation officers in her court make certain that the offenders understand how to follow protection orders: "She [the probation officer] goes over the order of protection over and over and over again at every meeting with the defendant."
- Most interviewees also underlined measures to protect victims' physical safety at the courthouse, identifying these measures as unique to the establishment of the jurisdiction's domestic violence court. They include separate waiting areas for victims and escorts to and from the courtroom.
- Interagency coordination and collaboration were also cited as ways to help ensure safety for victims. The site visit discussions highlighted that several of the other goals listed in the survey—facilitating access to services and achieving a coordinated response—were perceived as means to the ultimate end of securing victim safety.

Offender Accountability: Both courts and prosecutors rated offender accountability highly on the survey, with 79% of courts and 78% of prosecutors reporting it as extremely important. Accountability figured prominently in site visits and phone interviews as well. Given that accountability is almost universally endorsed in domestic violence courts, but may be defined differently from court to court, we tried to elicit as much information as possible about practices to encourage accountability during site visits and interviews.

- A number of court stakeholders discussed ways in which domestic violence courts encourage offenders to, as one judge framed it, "take responsibility for their actions." This judge described the use of the batterer program to promote accountability, accompanied by probation supervision to make sure that defendants are "taking the program seriously."
- Another judge stated that the domestic violence court promoted accountability by "getting the offender to obey the order of protection and stay away from the victim."
- Other interviewees mentioned the role of regular judicial or probation monitoring in holding offenders responsible for their actions. One prosecutor explained that monitoring enables the domestic violence court to generate "quicker responses to violations of the order of protection." Another judge stated, "If the offender is delinquent in the program or [in] any other way noncompliant, they are brought back to court. This really shows that the court hasn't forgotten about them and that we take their crime very seriously."
- Emphasizing the ultimate response to offenders' violent behavior, another judge defined accountability as "imposing more severe sentences . . . even for disorderly conduct."
- Finally, a batterer program representative indicated that domestic violence courts promote accountability by "increasing the cost of future domestic violence through orders of protection and by enabling future violations to be prosecuted criminally."

Overall, the qualitative data suggested that use and enforcement of protection orders and post-disposition monitoring of compliance figure prominently in conceptualization of accountability, whereas obtaining a conviction on the initial case or obtaining a sentence of incarceration were not so often linked to the concept.

Other Prominent Goals

Reducing Recidivism: More than half the court respondents rated deterring offender recidivism as extremely important. Deterring recidivism was embraced by California court respondents (86%) more than by respondents other states (74%) and least often by respondents from New York (61%). (The difference between California and New York was significant at the .05 level).

During site visits, interviewees frequently mentioned reducing recidivism as a key goal. Two probation officers both described the goal of the court as “stopping violence.” One victim advocate indicated that the existence of the domestic violence court helped to “prevent further violence by these perpetrators against this or another victim.”

In phone interviews with court representatives, we asked what strategies the court uses to reduce recidivism. Most interviewees discussed penalties for noncompliance with court orders, and many mentioned the use of batterer programs to prevent recidivism by first-time offenders. A final deterrent strategy that was described by two respondents involved coordination with civil courts on custody, visitation, and divorce matters. Such coordination was seen as enabling the judge to become familiar with all aspects of the case and to render consistent orders; offenders would thus be less able to justify making prohibited contact with victims by referring to conflicting orders or mixed messages from different judges.

Offender Rehabilitation: As described above, rehabilitation was generally a prominent goal, except in New York. It was often mentioned in interviews with probation officers, phrased by one officer as “interrupting the cycle of violence.” Several judges also focused on offender rehabilitation during interviews, with one stating her preference for sentences that include a batterer program over straight jail or probation sentences because “[the] programs rehabilitate.” Prosecutors rarely cited offender rehabilitation as a goal of the court, a finding from the site visits that is consistent with the prosecutor survey data (see also Gavin and Puffett 2007, who found analogous stakeholder-specific patterns).

Case Processing Efficiency: Judges and other justice system agents (probation, prosecution, and defense attorneys) often drew attention to the efficiency of having a single court hear all domestic violence cases. Several interviewees noted that “streamlining” these cases in a specialized court resulted in “more consistency in case handling” than in non-dedicated courts. This goal was prevalent enough in the qualitative data to merit discussion, although it was not rated as extremely important on most surveys (by 40% of court respondents and 46% of prosecutor respondents, without any significant differences by state or respondent type). In a notable dissent, one judge, considering the issue from the point of view of structure and court administration, found a specialized court *less* efficient than allowing domestic violence cases to be interspersed with others throughout the courts.

Less Prominent Goals

As shown in figure 4.1, several other goals were viewed as extremely important by a majority of survey respondents, but they did not elicit nearly as much attention from those who were interviewed. At least one domestic violence court judge articulated his belief that his foremost obligation was to uphold the state’s laws fairly and consistently, whether presiding over a

domestic violence court or other criminal court. Perhaps because applying domestic violence statutes correctly may indeed be a universal goal of criminal courts in general, for most interview participants, judges included, the handling of legal issues was not a salient difference that specifically distinguished the domestic violence court from a non-specialized court.¹⁰

Overarching Themes: Results of a Factor Analysis

Focusing on the survey data, a bivariate correlation analysis revealed substantial covariance among several groups of goal variables, suggesting that one or more latent themes might have affected how respondents were answering these questions. Through factor analysis, three components were identified that accounted for 64% of the covariance among 11 of the 13 goal variables: 1) victim safety/offender accountability, 2) victim services and domestic violence awareness, and 3) administration of justice. Rehabilitation and fostering judicial or prosecutorial expertise were not tied to any of these components and were dropped from the final analysis.

- Factor 1: Victim safety/offender accountability: Not only were victim safety and offender accountability the two most popular goals, but they were also strongly associated in the data. These two goals were also associated with penalizing noncompliance and deterring recidivism. Interestingly, all four goals that loaded on this factor appeared broadly connected to the idea of violence reduction, whether through victim safety (e.g., protection orders) or accountability strategies (e.g., compliance monitoring). However, although rehabilitation through cognitive/attitudinal change is yet another possible mechanism for violence reduction, it was not part of this (or any) factor. In effect, factor 1 was about protecting victims and punishing offenders to *deter* their violence, not about helping the offenders to reform.
- Factor 2: Victim services and domestic violence awareness: On this factor, two goals that involved meeting other victim needs besides their physical safety—access to services and perceptions of fairness—were associated with the two goals that involved the larger community: coordinated response and increased visibility of domestic violence as a social problem. Perhaps the needs and perceptions of victims who have ongoing court cases connects with a desire for the larger community and society to come together in acknowledging the crucial importance of these needs and of the violence that gave rise to their urgency. Phrased more simply, these goals may coalesce around the “coordinated community response” in that victim safety ultimately lies in eliminating domestic violence, which will require change at the community and societal levels.
- Factor 3: Administration of justice: A third factor appeared to be center on improvements in adjudication. This factor included three variables: efficient case processing, consistent dispositions and sentences, and correctly applying state statutes.

¹⁰ It is possible that some survey respondents did not properly interpret the goal item, “apply state statutes correctly and consistently,” which was deemed extremely important by 40% of courts and 46% of prosecutors. Surprisingly, despite the existence of an extensive and influential set of statutory requirements in California and the lack of any domestic violence-specific penal laws or sentencing requirements in New York, an identical 52% of court respondents in both states interpreted the item as something that was extremely important to them.

Table 4.2 provides results of our factor analysis. The first row displays the Eigenvalues, which represent the strength of the association between the factor and its component variables, or the overall strength of each factor. The second row displays the total percentage of variance explained by each factor. As noted above, overall approximately 64% of the variance in ratings of goals can be explained by these three factors.

The analysis was run separately on court and prosecutor data with almost identical results; hence, the table represents results of combining data from all survey respondents (n = 202). For this analyses, it was deemed preferable to retain all of the information contained in the original four response options (from “not a goal” to “extremely important” or 1-4) rather than recoding them into dichotomous measures, such as extremely important or not. The analysis treated each goal rating as a continuous four-category measure.

The qualitative data support the groupings in factor 1. The goals that fall together in this factor relate to the theme of victim safety and violence reduction through monitoring and accountability. In site visit interviews, respondents frequently pointed to offender monitoring and increased penalties for new offenses as important strategies for increasing victim safety. One interviewee described the court’s multifaceted monitoring policy:

Offenders have periodic review hearings three times a year. In addition, 70 to 80 percent of offenders are sentenced to probation supervision [and]...the court is notified if there is a violation of a court mandate.

Overall, we found limited support for factor 2 in the qualitative data, possibly because community awareness of domestic violence was outside the scope of our interviews. However, results of our factor analysis may provide a direction for future research into the relationship between placing a high value on victim services and victim perceptions of the domestic violence court and valuing public awareness of domestic violence and a coordinated community response.

Table 4.2. Results of Factor Analysis of Goal Variables: Court and Prosecutor Responses Combined (N=202)

N=202	Factor 1	Factor 2	Factor 3
	Victim Safety and Offender Accountability ¹	Victim Services and DV Awareness ²	Administration of Justice ³
Eigen Value	2.258	2.39	1.92
Cumulative Variance Explained (%)	56%	60%	64%

¹Variables included in this factor are (1) Increase Victim Safety (2) Hold Offenders Accountable for Illegal Behavior (3) Penalize Offenders Noncompliant with Court Orders (4) Deter Offender Recidivism

²Variables included in this factor are (1) Facilitate Victim Access to Services (2) Improve Victim Perception of Fairness in the Court (3) Increase Community Visibility of DV as a Social Problem (4) Achieve a Coordinated Community Response to DV

³Variables included in this factor are (1) Increase Efficiency of DV Case Processing (2) Increase Consistency of DV Dispositions and Sentences (3) Apply State Statutes Correctly and Consistently

Note: The two goals of (1) foster expertise among judges or prosecutors and (2) rehabilitate offenders did not strongly load on factors and were dropped from the analysis

Finally, the association in factor 3 of efficiency of case processing, consistency of dispositions and sentences, and improved enforcement of state statutes is unsurprising. The proper application of statewide statutes should naturally be expected to produce consistent sentences. Notably, this factor does not include any items that are commonly described as elements of “problem-solving courts,” lending support to the premise articulated in chapter 1 that domestic violence courts are not always appropriately viewed as problem-solving courts.

Summary

Domestic violence courts and prosecutors’ offices across the country agreed on victim safety and offender accountability as the most important goals for a domestic violence court. Other goals that stakeholders connected with these overarching themes in interviews—deterring recidivism, penalizing noncompliance, and facilitating victim access to services—were also viewed as extremely important by more than half the survey respondents.

We did find two areas of disagreement about goals. In both the surveys and interviews, prosecutors gave less weight to offender rehabilitation than did court respondents. In addition, New York’s court respondents gave greater weight to offender accountability and did not rate rehabilitation as so highly important compared to other states. We speculate that this difference reflects the attention paid to the experimental research showing a lack of effectiveness of batterer programs in reducing recidivism by the New York State Office of Court Administration, the New York Model for Batterer Programs, and the New York State Office for the Prevention of Domestic Violence. With this exception, neither state or community-level characteristics, nor court volume appeared to have much influence on goals. On 10 of the 13 goals presented in the survey, there were no significant differences in courts’ responses to the court survey that could be linked to state or other macroscopic factors.

Subsequent chapters will examine the nexus between goals and practice and whether courts that value certain goals higher than others also tend to implement a set of policies that would logically express those values.

Chapter Five

Domestic Violence Court History, Structure, and Staffing

This chapter presents information about the history, structure, and staffing of criminal domestic violence courts in our national sample. The information is summarized in Table 5.1. The average number of cases heard in 2007 was 1,309, although the sampled courts varied widely. The maximum number of cases heard was 15,000; on the low end, twenty-five courts reported hearing fewer than 100 cases in 2007. This variation in caseload reflects the wide range in the size of jurisdictions that have established domestic violence courts.

Structure

We defined a criminal domestic violence court by two criteria: (1) handling all domestic violence cases on a separate calendar or (2) assigning the cases to one or more “dedicated” judicial officers. Most courts meeting one of these criteria met the other criterion as well: 92% heard domestic violence cases on a separate calendar and 91% assigned dedicated judicial officers to hear domestic violence cases. However, as discussed in chapter 3, 31% of courts that responded to our survey did not turn out to meet either criterion, despite having been identified as a “domestic violence court” by some source when we first developed our compendium. The latter courts were excluded from all analyses in this report.

Of the 74 prosecutors’ offices that responded to our survey, 96% had a specialized domestic violence unit or one or more specialized prosecutors who handle domestic violence cases. On average, these offices reported having six prosecutors who work on domestic violence cases.

History and Planning

Of the domestic violence courts that responded to our survey, only two opened in the 1980s, close to a third (32%) opened in the 1990s, and the majority (66%) opened more recently, in the 2000s. Although the survey asked, “In what year was the domestic violence court established,” we discovered in site visit and phone interviews that many respondents found this question difficult to answer. It emerged that some domestic violence courts had no definite start date: in these jurisdictions, domestic violence cases gradually began to be placed on a separate docket, or one judge took the initiative to keep domestic violence cases on a separate calendar before a domestic violence court was formally designated.

Twelve of the 15 courts we visited indicated that a judge provided the impetus for establishing the domestic violence court. No other type of stakeholder was mentioned as frequently, although in some of these courts, one or more other stakeholders played an instrumental role alongside the judge, and in a few cases, spearheaded the effort, including the prosecutor, victim advocates, or a larger policy team or task force, and even a public defender.

Once the decision had been made to establish a domestic violence court, a formal planning team guided development of nine of the 15 courts that we visited. The people we interviewed at the three other courts were unsure whether such a team had existed. Stakeholders from all three Washington sites mentioned O.J. Simpson's 1995 criminal trial for murdering his ex-wife as the galvanizing force that led domestic violence to be taken seriously in the courts, despite his acquittal.

At the 12 sites where we were able to interview staff who were familiar with the court's start-up, we asked whether any prominent stakeholders opposed the court during the planning phase. At five sites, the defense bar had raised objections, although it was unclear whether these objections translated into ongoing opposition. Concerns of the defense attorneys included a fear that defendants would be "prejudged" as guilty, that the court would have a "one-sided" focus on victims, and that judges might impose more severe sentences in the specialized court. A more complex concern was that domestic violence court judges might come to view their judicial role as controlling people's behavior rather than making legally appropriate decisions. In one court, some judges were reportedly resistant to the domestic violence court because they did not want to be limited to hearing only one type of case.

We asked whether there were specific problems that arose during the planning and early evolution of the court that stakeholders tried to address proactively. Three areas of difficulty were noted: identification of appropriate cases for the domestic violence court, referral to the specialized court and logistics for handling case flow; post-disposition monitoring of compliance with court orders; and serving a geographically large county. A number of stakeholders raised concerns related to defendants, such as protocols for handling those with co-occurring substance abuse and mental health issues. At one court, bail conditions were discussed but ultimately not adopted based on objections from the defense bar. Stakeholders at several sites added that the need link offenders and victims to community-based resources and services was extensively discussed in the planning phase, especially the question of which batterer programs to use, taking into consideration credentials, location, ability to conduct classes in other languages, and cost.

One concern that arose when stakeholders were planning at least one court involved the role of the "resource coordinator," a staff member responsible for gathering and organizing all related court information. In particular, the concern was whether the individual in that role could speak directly with defendants. The court originally planned to obtain grant funding to hire a resource coordinator specifically to assess and talk to the defendants. This plan was scrapped and the grant not pursued due to objections from the defense bar, which argued that a resource coordinator is not a certified treatment provider and not bound by confidentiality restrictions. Instead, the resource coordinator's role was limited to talking with staff from the programs and did not entail assessing the defendants directly.

Last, we asked how the court had changed since its inception. The most common sources of change, noted in six of the fifteen site visits, were staff turnover and modifications of staff roles. A representative from one court said that initially there were two domestic violence court calendars, each with rotating judges. The most significant change was that, over time, specific judges began to sit in those courts consistently and received special training in domestic violence issues. Representatives from two other courts indicated that specific staff role changes have led

to a better approach, particularly in the prosecutor and victim advocate roles. For example, in one of these courts, stakeholders believed that the role of the victim assistance provider changed for the better as the victim advocates gained more of an “open door” with attorneys and improved communication with the probation department, such that probation would contact the victim advocates if circumstances arose with the probationer that raised concerns about victim safety.

Regarding general policy issues, victim advocates from this court similarly believed that the use of regular stakeholder meetings had provided an opportunity to educate the judge and others regarding victim safety issues, problems with victims receiving orders of protection, and other matters, leading to substantive improvements over time.

Some stakeholders drew attention to other types of changes in the structure of the domestic violence court. For instance, a representative from one court indicated that initially there were regularly scheduled stakeholder meetings, but that over time these meetings became less and less frequent and eventually stopped. Another example is that, based on positive experiences in the criminal domestic violence court, the chief judge in one jurisdiction added a specialized civil court as well as a domestic violence divorce court.

Another example of how domestic violence courts can change over time is that, in another jurisdiction, the prosecutors at first allowed the victim to sign an affidavit opposing prosecution. They ended this practice because, when asked, 90% of the victims indicated that they opposed prosecution. However, the defense bar objected to the elimination of these forms, arguing that not asking victims and offering the affidavit eliminated victim choice.

Dedicated Staffing

Domestic violence court staffing may reflect a combination of court goals, resources, and case volume. As shown in Table 5.1, the courts responding to our survey varied in their use of dedicated staff. The vast majority have at least one the following dedicated staff members: judicial officer (93%), prosecutor (83%), and victim advocate (79%). Slightly more than half have at least one dedicated public defender (63%), probation officer (52%), and/or case manager/defendant monitor (51%). Less common were dedicated project coordinators (38%) and dedicated law enforcement officers (22%). Stakeholders from one of the sites where the police department dedicated an officer to work on domestic violence court cases maintained that the officer improves the quality of evidence collected by re-interviewing the victim, interviewing the police officers who initially responded, and taking digital photos of injuries or other evidence when such photos were either not taken initially or were insufficient.

Of the courts with dedicated judicial officers, 61% did not establish a specific timeframe after which they had to rotate out of the domestic violence court. Almost all the dedicated judges (91%) received specialized training in domestic violence. A representative of one court said that the changes in dedicated staff, particularly the assignment of a new judge or prosecutor, highlighted “the human element,” demonstrating that changes in personnel can greatly affect court practice.

Table 5.1. Domestic Violence Court History, Structure and Court Staffing

	Percent	Mean	Range
History			
Opened in 1980s	2%		
Opened in 1990s	33%		
Opened in 2000s	66%		
Age of court (in years)		8	1985-2008
Structure			
Handle DV cases on a separate calendar	92%		
Assign dedicated judge/judicial officers	91%		
Length of judicial assignment ¹			
Specific timeframe for rotation	18%		
No typical timeframe for rotation	61%		
All dedicated judges/judicial officers receive DV training	86%		
Specialized unit in prosecutors office	95%		
Case Volume (based on 2007 cases)		1,309	1 - 15,000
1-500 cases	52%		
501-1000 cases	15%		
1001-2000 cases	13%		
more than 2000 cases	20%		
Dedicated Staff²			
Judge or Judicial Officer	93%	1.50	0-22
Project Coordinator / Administrator	38%	0.46	0-5
Program Compliance Monitor / Resource Coordinator / Case Manager	51%	0.73	0-5
Prosecutor	83%	2.03	0-15
Public Defender	63%	1.40	0-10
Victim Advocate	80%	1.66	0-14
Probation Officer	52%	1.49	0-15
Police Officer	22%	0.61	0-7
Clerk	78%	1.78	0-10
Bailiff / Security Officer / Marshall	63%	1.35	0-10

¹ 21% of courts were either unsure or provided text to answer this question that was not able to be coded.

² Indicates the percentage of courts with at least one of the following dedicated staff.

Chapter Six

Case Processing Laws and Policies

This chapter presents information about the domestic violence statutes and case processing policies of the surveyed criminal courts and prosecutors' offices. The sections of this chapter follow the approximate order of the dispositional process: domestic violence court eligibility, case screening policies, dispositional process, and final dispositions and sentences.

Cases Heard by Domestic Violence Courts

This section reviews the survey data on the types of cases that are eligible for the domestic violence court based on the formal charges or the relationship between the parties.

Case Type and Charge Severity

As shown in Table 6.1, nearly all courts (97%) reported hearing misdemeanor cases, although only 28% reported hearing misdemeanor cases exclusively. Most courts combine multiple case types; a little more than half (53%) reported hearing felony cases, a quarter indicated that they hear ordinance violations, and more than a third (38%) reported hearing civil protection or restraining orders in addition to criminal cases.¹¹

Domestic Violence Court Case Identification

All 129 courts reported hearing cases that involve violence between intimate partners (see Table 6.1). Among intimate partner violence cases, all the courts hear cases in which the victim and the defendant are married. Nearly all hear cases in which the victim and defendant are legally separated or divorced or in which the victim and defendant have children in common, regardless of their current relationship (97%). Even when the parties have neither been married nor have children in common, most hear cases in which intimate partners live together (89%). A smaller majority hear cases in which intimate partners do not live together (63%). Approximately three-quarters also hear cases in which the victim and defendant were former intimate partners (77%) or in which the victim and defendant are of the same sex (75%), although some jurisdictions have additional criteria for same-sex cases. For example, a stakeholder from one of the site visits noted that for same-sex couples to be eligible, the couple had to have lived in the same house for at least one year. In other jurisdictions, same-sex eligibility for the domestic violence court may be determined by the elected district attorney.

More than half of the court respondents (66%) also accept non-IPV cases, including elder abuse (60%), child abuse (60%), violence between other relatives (66%), and violence between roommates (43%).

¹¹ Twenty-four of the 50 courts (48%) that reported hearing civil protection or restraining orders were New York State's Integrated Domestic Violence (IDV) Courts. In IDV courts, a single judge hears multiple case types—criminal, family, and matrimonial—involving the same parties when the underlying issue is domestic violence.

Table 6.1. Domestic Violence Court Case Types

	Courts (n=129)	
Cases that the DV Court hears		
Felonies	69	53%
Misdemeanors	127	97%
Ordinance violations	33	25%
Civil protection/restraining orders	50	38%
Other	23	18%
Domestic Violence Court Case Identification		
Intimate partner violence	129	100%
Married	129	100%
Legally separated or divorced	127	97%
Have children in common	127	97%
Live together but are not married	117	89%
Do not live together and do not have children in common	82	63%
Former intimate partners	103	79%
Same sex couples	98	75%
Elder abuse	79	60%
Child abuse	79	60%
Violence between other relatives	87	66%
Violence between roommates	56	43%
Other	28	21%

The Role of State Statutes

At least one court survey was completed in 27 states plus Guam. According to the survey responses (and independently confirmed through legal research), at least 14 of these states have statutes specifically criminalizing domestic violence, whereas the others must apply the same criminal charges (e.g., assault or harassment) to both domestic and nondomestic violence cases. Examples of domestic violence-specific charges include domestic violence in the third degree in Alabama, domestic battery in Illinois and Kansas, criminal domestic violence of a high and aggravated nature in South Carolina, and commission of domestic violence in the presence of a child in Texas.

Where domestic violence statutes exist, the question of domestic violence court eligibility may be relatively straightforward; cases can simply be routed to the specialized court whenever the defendant is charged with a domestic violence offense. Yet, we found that such an approach is not universal. Whereas at one of the sites we visited eligibility for the domestic violence court was a straightforward result of the prosecutor charging the case with a domestic violence offense, a representative from another site noted that “cases are identified as domestic violence *not* by the charges but by the relationship among the parties.” In other words, at this site, some defendants might be formally charged with a domestic violence offense but the case would still not be eligible for the domestic violence court due to the court’s definition of the types of cases it will handle.

The Role of Formal Policies

Fourteen of the 15 domestic violence courts we visited reported having written policies regarding eligibility for the domestic violence court. Two of these courts reported, however, that they needed to be updated because of changes in court practice since inception. A representative from one of these two courts reported, “Sometimes when cases reach court clerks, there is ambiguity on parent-child or sibling cases because different clerks have different interpretations of eligibility criteria.” Where police officers are involved in flagging cases for domestic violence, a court representative from a different site noted that police and court definitions were not always identical: “The police definition of intimate partner may be narrower [than that of the court], excluding unmarried couples who do not live together and have no children in common and frequently same-sex couples.” Nonetheless, our general finding is that although court eligibility varied slightly between sites, the issue did not appear to pose a great challenge within sites, whether aided by the role of state statutes (in some jurisdictions), written policies, or other factors.

Case Screening Policies

We asked during our site visits for a detailed account of the exact case screening protocols. In two of the New York sites, cases are identified by the resource coordinator, who screens arrest reports prior to arraignment. The arraignment judge then adjourns all cases flagged by the resource coordinator for a next court appearance in the domestic violence court. In one of the Illinois sites, the prosecutor typically screens cases for domestic violence charges, and a victim-witness assistant from the prosecutor’s office drafts the petition with the victim. The prosecutor will pursue cases only if the victim agrees to testify. If a case is not pursued because a victim fails to appear, the victim has up to four months to ask the prosecutor to reinstate the allegation.

We administered a separate survey to prosecutors, in part because we expected that they would often have a central role in case screening. As illustrated by the preceding example from Illinois, prosecutors must also decide whether to pursue the case in court at all. More than half of the responding prosecutors (53%) reported filing at least three-quarters of all identified domestic violence cases. Nearly three-quarters of prosecutors (72%) indicated that they often or always file a case even if the victim is unwilling or unable to support the prosecution. Approximately 81% reported that the Supreme Court decision in *Crawford v. Washington* (2004), excluding “excited utterances” heard by police officers as hearsay, affected prosecution strategies and ability to move forward when a domestic violence victim is unwilling to testify.¹²

Court Orders and Disposition Processes

Temporary Orders of Protection

At nine of the 15 courts we visited, a judge typically issues a protection order at arraignment, a bond hearing, or first domestic violence court appearance. Nearly three-quarters (73%) of the courts surveyed similarly reported that the judge routinely issues a temporary criminal protection or restraining order at the first domestic violence court appearance and another 15% reported that

¹² Our data did not clearly indicate, and it was beyond the scope of this project to explore, exactly what changed in response to this decision, for example, whether the change affected the likelihood of filing charges in the first place or the likelihood of pursuing a case to trial once filed.

another judge routinely issues such an order before the case reaches the domestic violence court. Furthermore, 60% of respondents to the prosecutor survey reported that since the specialized court opened, the percentage of victims receiving temporary protection orders prior to final disposition had increased.

The process of obtaining or changing orders of protection was explored in site visits. At most sites the court asks the prosecutor or a victim advocate for information before modifying or terminating the order. In at least two sites, orders are issued, renewed, modified, and dropped by victim request. In one of these sites, the victim must appear in open court to request modification, and the judge will ask the victim if she or he is acting voluntarily, without duress or coercion. One judge felt that it was often difficult to assess whether the victim sincerely wanted the no contact order to be lifted or was being pressured.

Domestic Violence Prosecution

On average, respondents to the prosecutor survey reported that it takes five months after arrest for domestic violence cases to be disposed. Eighty-six percent of respondents reported that the expertise of those prosecuting domestic violence cases had increased since the opening of the domestic violence court.¹³ More than three-quarters of prosecutors (79%) also believed that the expertise of the judges who handle domestic violence cases had increased since the specialized court opened.

More than three-quarters of the responding prosecutors (77%) reported that their office had adopted a “vertical prosecution” strategy, in which the same prosecutor handles a case from filing to disposition. Keeping the same prosecutor with a case throughout its duration is believed to improve the prosecutor’s knowledge of case details as well as to provide a consistent contact person for victims, thereby increasing victim trust and confidence in the process and perhaps willingness to support the prosecution (see also Gavin and Puffett 2007). More than half of the prosecutors responding to the survey reported that vertical prosecution had increased with the establishment of the specialized domestic violence court (54%) and that, with or without vertical prosecution, the resources available for victim outreach had increased (70%).

Pretrial Diversion

Results from both the court surveys (26%) and prosecutor surveys (29%) suggest that approximately one-quarter of domestic violence courts use a “diversion model.” Although we did not attempt to define such a model on the survey, our intention was for it to connote a mandate to programs or other special conditions while the case is pending, in some cases with the legal incentive of receiving a more favorable disposition in response to compliance. In addition, our site visits made clear that in some locations it is an important court policy. In one court, for example, pretrial diversion was reportedly used in approximately 60% of domestic violence cases. In two other sites, the courts often use a special case processing mechanism for first-time offenders, which was defined as a method of diversion.

¹³ The survey findings did not make clear whether the perceived increase in prosecutor expertise was due to the introduction of specialized prosecution units, domestic violence training, better coordination with other stakeholders, or other reasons.

Final Dispositions and Sentences

As described in chapter 2, the literature indicates that domestic violence courts tend to make greater use of final orders of protection, program mandates, intensive probation, and other special conditions than do nonspecialized courts. The two sections below discuss the role of state sentencing requirements and then, for our survey sample, present data on the type and frequency of sentences ordered.

The Role of State Statutes

Survey respondents from 14 states indicated that their state laws mandate specific domestic violence sentences. Some examples cited by survey respondents included mandatory minimum prison sentences, minimum probation terms, batterer programs, fines, community service, firearms relinquishment, and protection or restraining orders. In California, for instance, if a person is sentenced to probation for a domestic violence crime, the terms of probation include a 52-week batterer program, restitution, and fines. As another example, in New Mexico, convicted domestic violence offenders are required to participate in and complete a domestic violence “offender treatment or intervention program.” In South Carolina, an offender convicted of criminal domestic violence must be imprisoned for a minimum of one year.

Domestic Violence Court Sentencing Policies

Table 6.2 presents the frequency with which court respondents reported that their court imposes each of ten types of sentences and sentencing conditions. The results reveal considerable cross-site variation, highlighting sentencing policy as an area in which domestic violence courts have not converged. For example, representing opposite ends of the spectrum, roughly similar percentages of courts reported that they often or always order a batterer program (45%) and that they rarely or never impose such a program (53%). For another example, similar percentages reported often or always imposing other program mandates, such as substance abuse or mental health treatment (34%), sometimes imposing such programs (38%), and rarely or never doing so (28%). Substantial variation was also apparent in the use of restitution, fines, community service, and conditional discharges.

Table 6.2. Sentences and Sentencing Conditions

	Never	Rarely	Sometimes	Often	Always
Batterer program	7%	47%	2%	12%	33%
Other type of program	20%	8%	38%	29%	5%
Probation	5%	5%	23%	49%	18%
Incarceration for less than one year	5%	16%	47%	28%	5%
Incarceration for one year or longer	33%	26%	36%	5%	1%
Protection/restraining order	7%	1%	11%	34%	48%
Restitution	9%	21%	46%	9%	15%
Fine	15%	15%	21%	21%	29%
Community service	17%	33%	26%	12%	12%
Conditional discharge	27%	12%	26%	28%	6%

On the other hand, two sentencing conditions were common across sites: protection orders and probation supervision. Four-fifths of courts reported often or always issuing final protective orders, with 48% giving a response of always. Approximately two-thirds (64%) of responding prosecutors reported that the percentages of victims who receive a final protective order had increased since the specialized court opened. Two-thirds of respondents reported that their court often or always sentences offenders to probation, whereas a mere 10% reported rarely or never doing so. Reflecting the frequent difficulties that prosecutors face in extracting a jail term on domestic violence cases, only one-third of court respondents reported that their court often or always incarcerates offenders for less than one year, and merely 6% reported often or always incarcerating offenders for one year or longer.

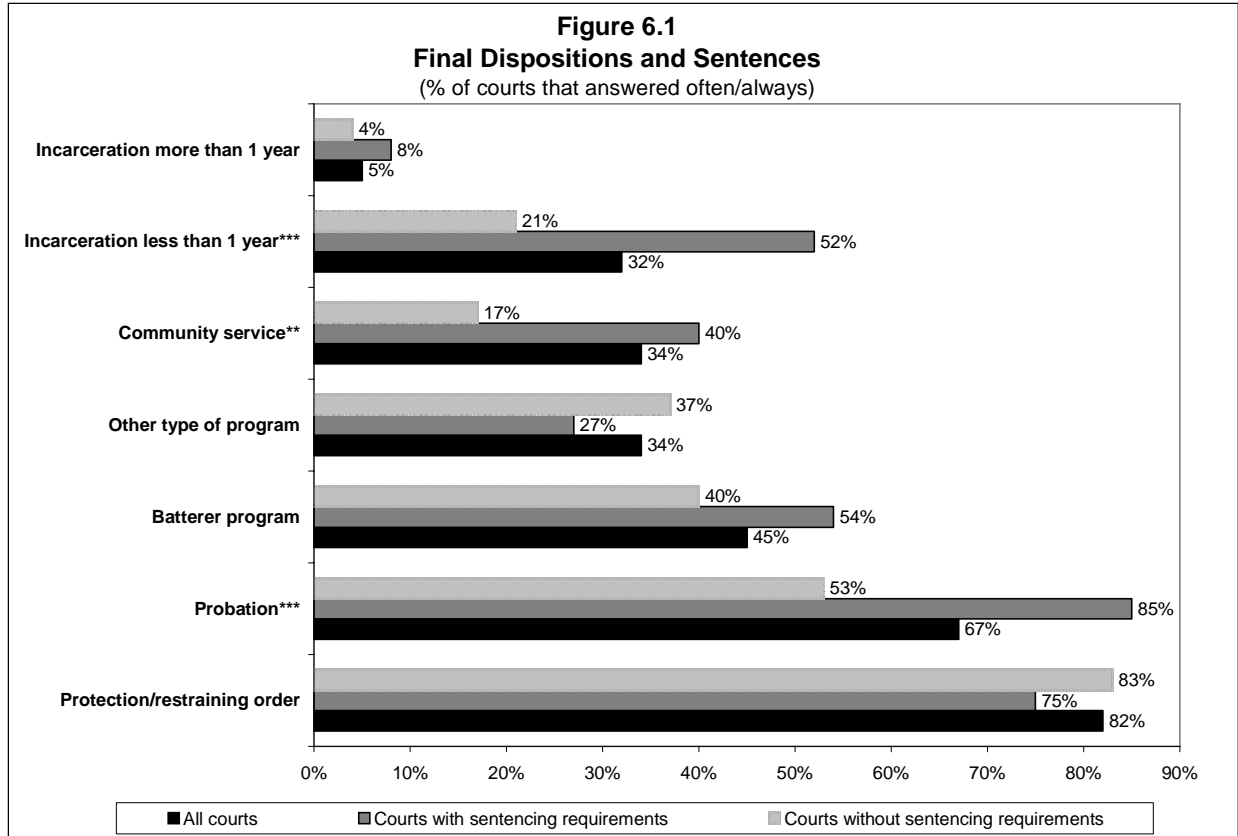
Figure 6.1 provides a visual illustration of the degree to which domestic violence courts reported often or always using different sentences, with a breakdown by whether the court reported having state-mandated sentencing requirements. Overall, the most commonly used sentences (reported by more than half of the courts) were protection/restraining orders and probation. However, additional analysis shows the influence of state statutes. For instance, 85% of court respondents with such requirements versus 53% of respondents without such requirements reported often or always imposing probation ($p < .001$). Furthermore, 52% of court respondents with state requirements reported that their court sentences offenders to less than one year of incarceration, compared to 21% of respondents from courts that did not report having state-mandated sentencing laws ($p < .001$). Finally, 54% of court respondents reporting mandatory sentencing requirements indicated that their court often or always imposes a batterer program, compared to 40% elsewhere (difference not statistically significant).

Factors Associated with Sentencing Practices

Analyses in this section examine which characteristics, including state in which the court is located, mandatory sentencing statutes, court goals, and other factors, are associated with the greater or lesser use of different sentences and sentencing conditions. We focused on the sentencing outcomes of ordering offenders to batterer programs, to other types of programs, to probation, incarceration (of any duration), and protection/restraining orders. (As shown in table 6.2, these variables were treated as continuous measures based on the original five-point Likert scale, 0 = never and 4 = always.)

We found that the following factors were significantly associated with the use of one or more key sentencing conditions (significant at least at $p < .05$):

- **State:** Domestic violence courts in California were significantly more likely than elsewhere to report often or always mandating offenders to batterer programs ($p < .001$), probation ($p < .01$), and incarceration ($p < .01$), as well as imposing final protection orders ($p < .05$). Like California, courts in New York were also significantly more likely than those in all other states to report imposing protection orders ($p < .001$), but New York's courts were significantly less likely to use incarceration and probation ($p < .05$). The California court practices reflect that state's rigorous statutory requirements, such as a provision requiring that probation sentences include a 52-week batterer program requirement.



†p<.10 *p<.05 **p<.01 ***p<.001

- Statutory requirements:** As shown in figure 6.1, courts reporting that their state has mandatory sentencing statutes were especially likely to report sentencing offenders to probation, incarceration, and a batterer program ($p < .01$). Once we controlled for whether the court was from California, the relationship disappeared between statutory requirements and use of batterer program mandates, but the independent effect of state statutes persisted with respect to the use of probation and incarceration.
- Domestic violence court goals:** In general, goals appeared to be significantly related to sentencing. Courts whose respondents viewed offender accountability as more important were more likely to report imposing protection orders ($p < .05$) and mandating probation ($p < .05$). Courts that viewed rehabilitation as more important were more likely to use batterer programs ($p < .01$) and probation ($p < .001$). Interestingly, although the mere existence of statutory requirements on sentencing was not associated with the greater use of batterer programs (see prior bullet), courts that rated the *goal* of correctly and consistently applying statutory requirements as more important were more likely to use such programs ($p < .05$). On the other hand, courts that rated the goal of efficiency more highly were especially *unlikely* to use batterer programs ($p < .05$). Finally, courts that rated the goal of deterring recidivism as more important were especially likely to use probation, perhaps anticipating a deterrent effect of probation monitoring ($p < .05$).

- Other court policies: Courts that reported hearing felony cases were more likely than others to report sentencing offenders to incarceration for one year or longer ($p < .01$) and issuing an order of protection ($p < .05$). In addition, courts that hear felony cases are significantly less likely to impose fines ($p < .01$). Finally, courts that reported primarily using a diversion model were significantly less likely to sentence offenders to jail for less than one year ($p < .05$).

Chapter Seven

Victim Safety and Services

This chapter presents findings related to victim safety and victim services. Respondents to the court survey were asked about the presence of victim advocates in the courtroom, provisions for victims' physical safety in and around the court, orders of protection, and strategies for keeping victims informed of changes in their criminal case. Prosecutors were asked about the roles played by victim advocates.

Major Survey Findings

Dedicated Victim Advocates

The most commonly reported mechanism for increasing victim safety was the presence of a dedicated victim advocate or advocates in the courtroom. A large majority of court respondents (80%) reported that there are one or more dedicated victim advocates, i.e., advocates who work solely with victims who have cases in the domestic violence court.

Many victim advocates work in conjunction with the prosecutor's office. A large majority of prosecutor respondents reported that their office directly employs victim advocates (81%) and that there are victim advocates working with the domestic violence court who are employed by an outside agency (80%).

Our research also revealed that victim advocates engage in a broad range of administrative and direct service activities, from mailing copies of protection/restraining orders to counseling (to be understood as options counseling and support rather than therapy). Table 7.1 provides an overview of typical roles that victim advocates play in domestic violence courts nationwide, as reported by respondents to the prosecutor survey.

As table 7.1 demonstrates, according to prosecutors, the majority of victim advocates working in domestic violence courts are working with victims on their current case as well as attempting to address general needs such as housing and safety planning. Overall, the three most commonly reported activities for victim advocates were explaining the criminal justice process, accompanying victims to court, and providing safety planning. The data also suggest, as did interviews, that there are differences in how the advocates working for the prosecutor's office and those working for non-profit agencies interact with victims. It appears that the advocates working for the prosecutors' offices place a relatively higher priority on trying to gain victims' cooperation with prosecution, whereas those working for private agencies emphasize prosecution less often and see their role as helping the victim achieve her goals whether or not they involved facilitating prosecution. A caveat should be mentioned: the prosecutors' description of the activities of the advocates they employ may be more accurate than their description of the activities of those employed by the nonprofit agencies. The advocates employed by nonprofit agencies may provide more assistance in civil proceedings as well as continuing to work with them after the case is over. The difference between the advocates employed by the prosecutor's office and those employed by nonprofit agencies is a topic that merits further examination.

Table 7.1. Percentage of Prosecutor Respondents Reporting that Dedicated Victim Advocates Perform the Following Roles

Role of Victim Advocate	Victim Advocates Employed by the Prosecutor's Office (N=62)
Explain criminal justice process	95%
Accompany victims to court	90%
Assess victims' willingness to participate in prosecution	86%
Gather information from victims to facilitate prosecution	84%
Provide safety planning for victims	81%
Assist victims with housing needs	74%
Assist victims with civil protective orders	58%
Provide counseling	39%

Note: forty-six of seventy-two responding prosecutors report working with advocates from both their own office and independent/nonprofit agencies

Orders of Protection/Restraining Orders

Protection or restraining orders have long been a critical tool in the legal system's efforts to protect victims of domestic violence. Almost all courts in this study (94%) reported regularly issuing a protection or restraining order at some point during the case. The vast majority (88%) reported that a temporary order is usually issued either at a defendant's first appearance in the domestic violence court (73%) or prior to the first appearance (15%). Many courts reported, however, that victims may not receive copies of the order for several days.¹⁴ As table 7.2 illustrates, one-quarter of the court sample (25%) reported that victims are sent their copy in the mail by the court clerk, prosecutor's office, or victim advocate. Another third of courts (35%) reported that victims are sent their protection or restraining order by mail or are given the order when they go to court. In 20% of courts, victims must make a trip to court in order to pick up a copy, although many victims may already be going to court for other reasons.

Table 7.2. How Victims Receive Copies of Criminal Protective/Restraining Orders, Reported by Courts (N=129)

By Mail Only	25%
At the Court Only	20%
At the Court or by Mail	35%
Other ¹	16%
Not Applicable ²	4%

¹Five of 21 courts that selected "other" reported that protective orders are hand delivered to victims by court officers or investigators from the prosecutor's office

²Five courts reported that they do not issue criminal protective orders

¹⁴ Victims may not receive copies that are mailed to them, especially in the aftermath of an incident.

Victim Safety in and around the Courthouse

Victims do not always come to court during the course of their criminal proceedings. Before looking at how courts safeguard victims, we attempted to gain an idea of how often and why victims or complaining witnesses come to court. The most commonly reported reason for victims to come to court was to request an order of protection. Forty-five percent of court respondents indicated that victims often or always appear for this reason. The survey also found that in more than one-third of courts, victims often or always come to court to modify a protective/restraining order (38%) or to meet with a victim advocate (39%). Finally, approximately a quarter reported that victims often or always come to court to observe proceedings (24%), testify (27%), or obtain victim services (22%).

Overall, the survey results indicated that in most domestic violence courts, victims at least sometimes come to court for one or more of the above reasons, suggesting that most domestic violence courts are faced with the challenge of addressing victim safety at the courthouse. To gain a broad picture of how domestic violence courts accomplish this, we asked respondents about provisions for victims' physical safety in the courthouse, as well as while traveling to and from court. The most commonly reported physical safety measure was a separate waiting area for victims and defendants, with 60% of court respondents reporting having a separate waiting room for victims or segregated seating areas within the courtroom. Thirty-eight percent of court respondents indicated that their court routinely offers safety escorts to victims prior to court proceedings, and half offer escorts after proceedings (50%). Several respondents noted on the survey that escorts are available only upon request. Finally, only one-quarter of all court respondents (24%) reported providing childcare for victims and witnesses during the proceedings.

Physical safety also came up frequently during site visit interviews, with 11 of 15 sites identifying it as a major issue. Results from the qualitative data also suggest that in some courts, a lack of staff and material resources could inhibit provisions for victim safety in the courts. For example, stakeholders at one site described not being able to address victim safety as effectively as they would like because of "logistics, space, and staffing." In site visit and phone interviews, some domestic violence courts and prosecutors indicated that they discourage victims from attending court because assuring their physical safety can be challenging. Others viewed physical safety of the victim as a general challenge for the court without a specific cause or solution, as described by stakeholders at the following three sites:

Site 1 stakeholder: The biggest issue is that victims are scared to park in the garage [a four story indoor parking structure that connects to the courthouse via an outdoor walkway]. During the trial, they have private, locked waiting rooms. They can get an escort out. But coming in, they are alone. There is also a single entrance. Offenders (or their family members) approach victims during the lunch break.

Site 2 stakeholder: There is a big safe waiting area with toys for children of victims using the civil court, but not for the criminal court.

Site 3 stakeholder: There is no children’s room at the court. There is no waiting space at the court, but victims wait at FJC [the Family Justice Center] only two blocks away.

It remains a primary goal for many domestic violence courts to provide services to victims that could increase their safety during the criminal case, outside of the courtroom, and after the case is disposed. This is frequently accomplished through outreach by prosecutors, probation, or by victim advocates working with the prosecutor’s office, in the community, or with the court. As described by one prosecutor interviewed during a site visit, this outreach can involve engaging victims on multiple levels:

The latter [victim coordinator] role includes interviewing the victim, obtaining victim statements, obtaining victim preferences on prosecution, and linking victims to victim advocates or others who can provide direct services. This role serves as a communication hub during the predisposition period.

To gain a better idea of the extent of victim outreach by victim advocates in prosecutors’ offices, the prosecutor survey asked for an estimate of the percentage of victims who typically meet with a victim advocate at some point during the case (without specifying the content of such interactions).

More than 75% of respondents reported that victims meet with advocates in more than half of domestic violence cases. However, a substantial minority (22%) reported that fewer than half of victims meet with advocates. The findings suggest that most victims in a domestic violence court see an advocate at some point in the handling of their case, but many do not.

Qualitative Findings: Strategies for and Obstacles to Addressing Victim Safety

Qualitative data indicate that some stakeholders view certain features that are common in domestic violence courts, such as on-site victim advocates, the consolidation of expertise among dedicated staff, and community coordination, as helping to address victim safety and provide victims with general support. In the first example cited below, an interview respondent discussed an interaction between a specialized domestic violence court judge and a victim that resulted in the victim seeing an advocate before making a final request to the judge. The interviewee generalized the interaction to other domestic violence court staff:

A woman came in to have an OP [order of protection] lifted. The judge sent her to “A Safe Place” office in [the] courthouse She ended up modifying instead of dropping [after talking with the victim advocate]. The victim/witness counselors and even ADAs will send victims to [the private] advocate’s office.

In another case, a victim advocate working in a domestic violence court discussed initiatives by the prosecutor’s office to provide social services to victims with domestic violence court cases:

The DA’s . . . [domestic violence] unit works with community-based and governmental organizations [e.g., domestic violence shelters or child protective

services]. This unit has also helped to start a victim empowerment organization, where victims identified through the prosecutor's office can meet each other and talk to victim advocates in a safe space away from the court.

Summary

As demonstrated in chapter 4, victim safety is a high, if not the highest, priority goal for many domestic violence courts. The evidence in this chapter illustrates that domestic violence courts and prosecutors have adopted a variety of strategies to reach that goal, from consistently issuing protection orders to offering a wide range of types of assistance to victims. Although not all victims appear in court, a majority of survey respondents reported that victims sometimes come to the courthouse, most commonly to request or modify an order of protection or to testify. Regarding physical safety while at the courthouse, a majority of courts separate defendants and victims in the courtroom. Some courts offer a safe space to wait, and some offer escort services or childcare, but many do not, often due to a lack of staff or economic resources.

We found that a large majority of prosecutors' offices employ victim advocates who attempt to contact victims on every domestic violence case. The difficulty of establishing contact with victims presents a serious obstacle to providing services, however, with nearly a quarter of prosecutors reporting that victims are contacted in fewer than half of cases (22%) and a small percentage (11%) estimating that their staff made successful contact with victims in fewer than 25% of cases. Other factors that may affect the services that victims receive are the number and types of advocates who work with the court. Specifically, we found that victim advocates employed directly by the prosecutor's office are significantly more likely to explain the criminal justice process and assess victims' willingness to participate in the prosecution, whereas victim advocates employed by an outside nonprofit organization are more likely to provide counseling. Most prosecutors (62% of our sample) reported working with one or more of each type of service provider in the domestic violence court context.

Our qualitative data revealed several innovations that domestic violence courts had developed to increase victim safety. For example, one court reported using the common occurrence of victims requesting that a protection order be dropped to connect victims with advocates. Another prosecution unit linked with a domestic violence court worked with community and governmental organizations to increase victims' empowerment and awareness of their rights by creating a safe space away from the court for victims and advocates to talk.

Chapter Eight

Offender Assessment and Program Mandates

This chapter presents findings related to the use of offender assessments (for risk of re-offending or lethality, mental health, substance abuse, and psychosocial profiles) and mandates to treatment or batterer programs. On our site visits, stakeholders pointed out that a salient difference between adjudicating a case in a domestic violence court and a general criminal court was the use of assessments and program mandates by the court that are specifically designed for domestic violence offenders. Probation departments or batterer programs usually conducted assessments to assist the court in its decision making or to guide their own, and programs were frequently ordered as part of a sentence. In some states, batterer programs are mandatory for all or large categories of domestic violence offenses, regardless of whether the case is heard in a specialized court.

Offender Assessment

In the surveys, we asked whether offenders receive assessments, why, and what the assessments measure. We asked on site visits but not in the survey who conducts the assessments. Nearly half the court respondents (45%) reported that offenders are assessed, with another 11% reporting that offenders are assessed sometimes.

Why Assessments are Conducted

Where assessments are conducted at least sometimes (N = 74), they are primarily used for pragmatic reasons: to determine the type of program or intervention that the court (or probation) should order (76%), to guide decisions about the intensity of probation or judicial supervision (49%), and to determine the type or length of the sentence (24%).

Table 8.1 presents frequencies from the survey question about the types of evaluations conducted in conjunction with domestic violence courts: drug and alcohol abuse (51%), mental health (49%), sociodemographic background (40%), and risk of repeat violence (40%). Also, at least somewhat common are assessments for defendants' service needs (34%), victimization of the defendant (26%), and risk of lethality (12%).

Assessments of Drug and Alcohol Abuse and Mental Illness: As conveyed in site visits, assessments for drug and alcohol abuse and mental illness are often used to determine appropriate orders to programs or services. Any of these complicating issues may make it difficult or impossible for an offender to participate in a batterer program. (Some batterer programs address both domestic violence and substance abuse or mental health issues). Although judges sometimes order testing for substance abuse, more often an assessment is conducted as a component of the intake process by probation or the batterer program. In the latter case, the court may never see the assessment, but become aware of the requirement to attend additional programs by probation or rejection of the defendant by the batterer program.

Table 8.1 Percentage of Courts Reporting Use of Types of Defendant Assessments (N=129)

Assessment Type	Percentage of Courts
No Assessment Used	55%
Drug or alcohol abuse	51%
Mental health	49%
Background characteristics	40%
Risk of repeat violence	40%
Service needs	34%
Victimization of the defendant	26%
Risk of lethality	12%

In some sites, the assessment for drug and alcohol abuse is done informally, if at all. At others, if substance abuse is suspected, the offender is referred to a substance abuse program for further evaluation. During a site visit interview, one probation officer noted that offenders often “minimize drinking,” so this officer’s department sends domestic violence offenders for an expert alcohol evaluation and breathalyzer test from an outside agency. An officer from another probation department expressed a preference for the court to order chemical testing for substance abuse, rather than for the probation department to initiate it. Otherwise, as the officer noted,

If the court did not order drug testing, then probation will refer to a substance abuse program for assessment. . . . If [the] assessment shows they need treatment, they have to go or face revocation, even though the program was not part of the original court order.

In two sites, batterer program representatives said that it is a matter of policy for programs not to conduct drug or alcohol assessments. In these sites, if it is observed that substance abuse is interfering with program participation, the offender will be referred back to the court so that the court may issue an order for appropriate services.

Risk of Re-offending and Lethality: Prosecutors frequently conduct an initial assessment of risk to determine the intensity of outreach to the victim by the victim advocate in the prosecutor’s office, whether the case should be expedited by the prosecutor’s office, and what position the prosecutor should take regarding pretrial release conditions. On site visits, we most often found that prosecutors evaluated risk of reoffending and lethality either by reviewing the rap sheet or by considering a longer list of factors beyond criminal history. For example, a prosecutor at one domestic violence court we visited informed us,

The DA’s office ultimately makes a case-by-case decision as to risk level, classifying cases as high or low-risk, but does employ an intake form that considers past criminal violence, repeat domestic violence arrests, use of weapons, facts of the current case (e.g., severity of injuries), and prior order of protection history. More subjectively, the ADAs [assistant district attorneys] reviewing a case will look at precisely what the police officers wrote about the case in their report.

Other prosecutors mentioned taking into account threats and violations of prior orders. At some sites, a formal lethality assessment was conducted with the victim. In this site, a determination of lethal risk may increase the likelihood of a ‘victimless’ prosecution if the victim is unwilling to participate.

Assessment of risk of reoffending and lethality may also be used by probation to determine intensity of supervision, as a stakeholder at one court explained:

Probation does a “risk needs assessment” that determines level of supervision; 85% are deemed high risk and have to come in two times per month. Probationers are reassessed after six months; the majority go down to one time a month.

Similarly, we were told by the probation department representative at one court that if the batterer program feels a probationer is “not getting it,” the program will pass that information to probation, which will then ask the court to extend the mandate.

Use of Standardized Instruments

Of those who indicated that assessments were conducted at least sometimes, about half (53%) reported that standardized tools were utilized; another 36% did not know how assessments were conducted because they are performed by other agencies.

The concept of a “standardized assessment,” however, may have a different meaning to researchers and practitioners, as shown by the information we received on site visits. Two of the five states that we visited require that probation or the batterer program use a state-issued form to assess mental health and substance abuse, hence this form is regarded as standardized. We found that empirically validated assessment tools (standardized in a research sense) were used by court-affiliated agencies in only two of the 15 sites we visited. In one case, probation uses the Spousal Abuse Risk Assessment (SARA); in another, the batterer program uses the Domestic Violence Inventory (DVI). Lethality assessments that other courts used with victims were often ad hoc, and derivations were unknown. Many appeared to be based loosely on Jacquelyn Campbell’s Danger Assessment (Campbell 1986, 2009).

Use of Batterer Programs

As noted in the literature review, studies comparing domestic violence courts to general criminal dockets have found that domestic violence courts are more likely to mandate completion of a batterer program as part of a sentence. In fact, only one of the 15 courts in our site visit sample did not order at least some domestic violence offenders to batterer programs.

In the survey, about a third (34%) of court respondents reported that 75% to 100% of offenders were ordered to a batterer program. At the other end of the spectrum, 44% of respondents indicated that less than a quarter of offenders were so ordered.

Mandatory sentencing laws appeared logically connected to the use of batterer programs, particularly in a number of states with statutory provisions requiring the ordering of batterer

programs for large categories of domestic violence offenders. As discussed previously (chapter 6), however, when we controlled for whether the court was in California (where conviction on certain domestic violence charges requires sentencing to a batterer program through probation), mandatory sentencing laws did not exert an independent, statistically significant effect on mandates to batterer programs. Instead, there was a constellation of significant effects: batterer program mandates were more frequently ordered by courts in California, and by those emphasizing the goals of rehabilitation, correctly and consistently applying statutory requirements, and case processing efficiency.

Use of Batterer Programs Pretrial

Few domestic violence courts reported ordering batterer programs *before* a guilty plea or conviction (i.e., as pretrial diversion or a condition of pretrial release); only 15% of court respondents reported doing so often or always, whereas 68% reported doing so rarely or never (see table 8.2). Consistent with this response by courts, 69% of the surveyed prosecutors reported that the court uses predisposition mandates rarely or never. How and why some courts mandate offenders to a program prior to conviction was elucidated on site visits (see below).

Table 8.2. Percentage of Responding Courts that Reported use of Program Mandates Prior to Conviction (N=129)

Always	5%
Often	10%
Sometimes	17%
Rarely	22%
Never	46%

One of the 15 courts we visited reported using batterer or parenting programs as a condition of pretrial diversion,¹⁵ as well as mental health or substance abuse treatment programs if an assessment demonstrated a need. As another example of pretrial diversion offered in limited circumstances, a court representative noted that if the victim agrees and it is a first offense, the court will offer the defendant the option of attending a batterer program before trial. If the defendant completes the program, the charges are dismissed. This jurisdiction also has a “special needs diversion” program for defendants charged with misdemeanors who have mental health issues. Finally, one responding felony domestic violence court offers defendants the option of a program as a condition of pretrial release.

¹⁵ Although the meaning or nature of “pretrial diversion” varies by jurisdiction, it typically involves a defendant in avoiding or delaying the usual dispositional process by agreeing to participate in a program. Successful participation in such a program usually enables a defendant either to circumvent the court process entirely or to receive a more favorable case outcome than they would have otherwise.

Why Domestic Violence Courts Order Defendants to Batterer Programs

Accountability

Consistent with the goals identified for domestic violence courts in general (chapter 4), the primary reason reported for ordering offenders to attend a batterer program was to hold them accountable: 94% of court respondents rated this reason as either very or extremely important, with 74% selecting extremely important (see table 8.3). We were particularly interested during the site visits and phone interviews in probing what respondents mean by accountability. We are aware that this frequently used catch phrase can have different meanings. In site visits, accountability in the context of a batterer program order was sometimes defined as the offender verbally acknowledging responsibility. As one interviewee expressed it, “By the time they finish [the batterer program], they acknowledge abusive behavior, express a plan to change their behavior, and make a commitment to no abuse.”

Many of those we interviewed defined accountability as a result of participation in a batterer program, as described above, when the program leads offenders to take responsibility for abuse. Others, however, defined accountability more formally as compliance with the court order to attend the program: “The offender is given 48 hours to contact a batterer program and sign up. If the offender fails to report within 10 days, it is an automatic violation of probation.” This statement (and its context in the interview) emphasized the bottom line of compliance with the court order as demonstrating accountability—the offender either does or does not attend as ordered—rather than behavior or attitudes expressed within the program.

Importantly, the two preceding views of how batterer programs hold offenders accountable are not necessarily mutually exclusive; the court may hold offenders accountable for attending the program and view the value of the program as leading offenders to take responsibility for past behavior. In some cases, the two views may represent incompatible perspectives, however. Some courts may use batterer programs initially, or at times reorder a noncompliant offender to return to a program without facing other penalties, until the offender takes responsibility for the abuse. Other courts may define accountability exclusively or primarily as complying with the order to attend, without reference to what the offender has learned.

Table 8.3. Court Respondent Ratings of Provided Rationales for Batterer Program Mandates (N=129)

	Not Important	Somewhat Important	Very Important	Extremely
Accountability	1%	6%	20%	74%
Monitoring	7%	7%	27%	58%
Treatment or rehabilitation	16%	16%	21%	48%
Mandated by state statute	58%	11%	7%	24%
Proportionality	13%	32%	34%	21%
Alternative to incarceration	29%	35%	25%	11%

Monitoring and Other Functions

As shown in table 8.3, most courts also rated the “monitoring” function of batterer programs as very or extremely important (85%), followed by “treatment or rehabilitation” (68%). A lower percentage of court respondents primarily valued batterer programs as a sentence that is proportional to the offense, a statutory mandate, or an alternative to incarceration, although only 13% of respondents rated the legal principle of proportionality as not important.

Batterer Programs and Case Outcomes

As shown in table 8.4, program completion has no impact on the case disposition or sentence in most domestic violence courts. In some courts, however, program completion ends the case, with a reduction in the conviction charges or sentence (typically the probation term). Only 10% of court respondents reported dismissing cases when offenders completed mandated programs.

Table 8.4. Typical legal outcomes for defendants who have completed all mandated programs as reported by courts (N=129)

<i>Legal Outcome</i>	% Courts Reporting this Outcome
No impact on the case disposition or sentence	64%
Case closed and conviction charges reduced	14%
Case closed and probation term or sentence severity reduced	12%
Case dismissed	10%

Other Programs Ordered by Domestic Violence Courts

The court survey asked respondents what other types of programs, other than batterer programs, defendants are ordered to attend. As shown in table 8.5, the respondents were most likely to order some of offenders to alcohol or substance abuse treatment (94%) and to mental health treatment (86%). A majority also reported ordering offenders to a parenting class (64%), while fewer respondents listed anger management for intimate partner violence (44%), anger management for other types of domestic violence cases (parent-child, siblings, etc., 49%), and a number of other treatments.

In the sites we visited, substance abuse treatment often appeared to be used in tandem with rather than in lieu of a batterer program. In our survey sample, we found that none of the percentages reported in table 8.5 significantly varied based on whether the court often or always reported ordering a batterer program. In other words, frequently ordering a batterer program was associated with neither a greater nor lesser likelihood of frequently ordering any of the other types of programs.

Table 8.5. Types of Programs Defendants Are Ordered to Attend, Reported by Courts (N=129)

Program Type	% Courts Reporting this Program Type
Alcohol or substance abuse treatment	94%
Mental health treatment/counseling	86%
Parenting class	64%
Anger management for other domestic violence cases	49%
Anger management for intimate partner cases	44%
Supervised visitation	37%
Couples counseling	11%
Mediation	5%
None	2%

Note: Percentages do not total 100% because respondents could check all that applied.

Summary

Fewer than half the domestic violence courts surveyed reported often or always using formal and informal assessments. Among courts that do use assessments, the assessments are sometimes administered by staff directly connected to the court, but, more usually, by affiliated agencies and programs to help determine dangerousness, prosecution strategies, and victim outreach, as well as the length and intensity of probation supervision or batterer program mandates. Assessments may also be used to determine the most appropriate type of program to be ordered, particularly whether there is a need for substance abuse or mental health treatment.

Most courts reported incorporating batterer program orders into the sentencing of at least some offenders, although only a third of courts (34%) reported sentencing as many as three quarters of their offenders to such programs.

The primary reason that courts reported using batterer programs was to hold offenders accountable—a reason endorsed by three quarters of courts. As demonstrated in our site visit and telephone interviews, the meaning of accountability differed across courts and stakeholders, from personal acknowledgement of responsibility to simple compliance with the court order (attending or not attending). Slightly more than half of court respondents perceived batterer programs as a mechanism for monitoring offenders, and slightly fewer than half saw these programs as serving a treatment or rehabilitative function.

Nearly all courts reported also ordering substance abuse and mental health treatment for domestic violence offenders as necessary. Other programs sometimes ordered by most courts were parenting classes and anger management.

Chapter 9

Supervision and Court Responses to Noncompliance

The research literature suggests that domestic violence courts are more likely than nonspecialized courts to engage in intensive supervision and to impose sanctions, including probation revocation and jail, when offenders fail to comply with court-ordered conditions (Angene 2000; Harrell et al. 2006; Harrell et al. 2007; Newmark et al. 2001). As discussed in the literature review in chapter 2, however, only a handful of courts have been examined with respect to these issues, and it is unclear whether their results were broadly representative. This chapter presents a broader portrait of domestic violence courts nationwide with respect to probation supervision, court supervision, and consequences imposed for noncompliance. We also analyze whether court characteristics (e.g., state statutes, court goals, and use of program mandates) may be associated with supervision and enforcement practices.

Probation Supervision

Approximately two-thirds (62%) of court respondents reported often or always mandating offenders to probation. As noted in chapter 6, such supervision is even more prevalent in states that have statutory sentencing requirements.

Although probation departments were not surveyed, the courts reported that offenders meet with their probation officers twice a month on average, with a range in frequency of supervision from weekly to every three months. Nearly a quarter of respondents (23%) indicated that probation often or always requires the offenders they supervise to attend substance abuse or mental health treatment in cases when the court did not expressly mandate such programs. An additional 34% of responding courts indicated that probation might sometimes impose such requirements.

In a recent study of specialized domestic violence probation, one factor that differentiated the specialized approach from traditional probation was greater probation contact with domestic violence victims (Klein and Crowe 2007). Thus, we were interested in whether victim outreach was common among probation officers who work with domestic violence court cases. The information was elicited from the courts and not probation directly. Considering the 99 responding courts that reported ordering offenders to probation at least sometimes, we found that 87% of this sub-sample indicated that probation officers routinely contact victims. The most common reason for contacting victims was to elicit information (46%), with 37% specifically citing an interest in asking the victim about offender compliance with protection orders. Twenty-six percent indicated that probation officers routinely contact victims to alert them of noncompliance by their abuser, and 21% indicated that they contact victims to offer services.

Two of the 15 probation units associated with domestic violence courts studied in site visits had staff dedicated to assisting victims. A probation officer from one of these departments described the department as having dedicated victim counselors to locate and provide outreach services to

victims. Outreach activities include explaining the court's sentence and mandates to victims and providing service referrals that include counseling, shelter, and a hotline. An officer from another probation department reported creating a specialized unit for defendants who have also been identified as victims of domestic violence. The unit has two dedicated probation counselors to provide both services and supervision for this population.

Consistent with the survey data, stakeholders interviewed at a number of sites said that a probation counselor contacts the victim if the counselor is aware of prohibited behavior by the offender, such as drinking or failure to attend the mandated program. Probation staff in the California, New York, and Washington sites also reported that victims sometimes initiate contact with probation to report the offender's violation of conditions of probation and to access information about services.

To further understanding of the court's response to noncompliance with orders to probation, we asked survey respondents how often probation provided the court with compliance information. Of those courts that at least sometimes mandate offenders to probation, 49% receive reports from probation regularly, 41% only upon the filing of a probation violation, and 10% rarely or never receive reports from probation.¹⁶ These findings suggest that there is at least some communication between probation and the court in nearly all of the courts surveyed. Interviews reflected that some probation departments have a dedicated staff member responsible for attending all domestic violence court sessions as well.

Interviews at two Illinois domestic violence courts highlight both commonalities and distinctions in probation assessment and program referral practices within one state. At both courts, interaction between a convicted offender sentenced to probation and a probation officer begins with an intake assessment for substance abuse and mental health issues, a review of terms and conditions, and assignment to a probation officer. Probation departments at both sites conduct a record check for all prior arrests and a review of the police report on the current arrest. At one site, this assessment is used to determine an appropriate program referral, typically to a batterer program. When a batterer program is ordered by the court, probation staff is responsible for conducting a lethality assessment to determine the appropriate level of supervision. In the other Illinois site, a probation social service unit staff member conducts the lethality assessment, and both the lethality and intake assessments are used to determine the appropriate program mandate (which is still typically a batterer program). The social service staff member also meets one-on-one with the offender until the offender is deemed ready for batterer program participation. The offender may be referred to an internal probation social service batterer program or to a program provided by another agency. If there is a prior criminal history, the offender is typically assigned to the internal program to facilitate enhanced supervision.

Court Supervision

In general, court supervision involves regular status hearings before a judicial officer for the express purpose of compliance monitoring, not to address dispositional issues in the case. Such

¹⁶ One court respondent indicated receiving a report from probation only upon the completion of all probation requirements, which we reclassified with the other rarely or never responses.

supervision typically occurs after a conviction but can also occur earlier, sometimes in tandem with a pretrial diversion program.

Specialized drug and mental health courts routinely use court supervision to verify offender compliance with court-mandated programs and other conditions, remind offenders of their responsibilities and of the consequences of compliance and noncompliance, impose interim or final sanctions in response to noncompliance, and motivate offenders to make progress through individualized conversational interactions (see Farole et al. 2004). In contrast, a single jurisdiction of a domestic violence court found that the depth of the judge-offender interaction was perfunctory, consisting of a check-in or simple surveillance rather than robust supervision (Rempel et al. 2008). The study also found that the surveillance approach to judicial monitoring was ineffective in deterring recidivism. The limited research on domestic violence courts precludes generalization about the prevalence or typical nature of judicial monitoring with domestic violence offenders. We sought to fill this gap through a series of questions on our court survey and structured courtroom observation of the 15 sites that we visited.

In the survey, more than three-quarters of court respondents (77%) indicated that their court at least sometimes brings the defendants back to court for compliance monitoring. However, eight respondents reported holding infrequent check-ins, either every four months or less often. For further analyses, we omitted these sites, defining “regular compliance monitoring” as requiring court appearances at least once every three months. By this standard, 56% of courts reported holding regular compliance reviews often or always, and an additional 15% reported doing so sometimes. Of those courts, more than half (54%) reported that they conduct monitoring on a separate compliance calendar rather than mixing judicial status hearings with hearings for traditional adjudication purposes.

Table 9.1 presents survey findings on the *typical content* of court supervision conducted post-conviction. Among those courts that report monitoring at least sometimes, respondents could check as many specific supervision practices as applied.

- Surveillance and Interaction: The judge or judicial officer conducts at least one basic surveillance or judicial interaction with the defendant in 64% of the courts overall. We defined such tasks to include conversing directly with the defendants (47%), reviewing probation or program reports (46%), or reviewing alleged criminal behavior (40%).
- Information and Understanding: In almost two-thirds of the courts (66%), the judge attempts to use court supervision in at least one respect to increase the offender’s information about and understanding of the requirements of the sentence. We defined such efforts to include reiterating the program attendance requirements (43%), the consequences of noncompliance (42%), or restrictions on victim contact (35%).
- Sanctions and Incentives: In 65% of the courts, the judge takes at least one of the following actions: admonishing defendants for noncompliance (45%), imposing concrete sanctions for noncompliance (39%), or praising compliance (40%).

Table 9.1. Judge’s Actions in Compliance Hearings

Judge’s Actions	
Surveillance and Interaction	64%
Converses directly with defendant in court	47%
Reviews report submitted by program or probation	46%
Reviews any re-arrests or alleged violations of court orders	40%
Information and Understanding: Reinforces Requirements	66%
Reiterates program attendance responsibilities	43%
Explains the consequences of future noncompliance with court orders	42%
Reiterates restrictions on contact with the victim	35%
Sanctions and Incentives	65%
Admonishes defendant for noncompliant behavior	45%
Praises compliant behavior	40%
Imposes concrete sanctions for noncompliant behavior	39%

Overall, because none of the specific actions was used by more than half the sample, these results suggest that judicial status hearings proceed differently in different domestic violence courts, and that there are not currently *any* strategies that have been universally adopted as part of a best or “recommended practice” model for such hearings.

It is notable that one-quarter (25%) of the sampled courts did indicate that they conduct *all nine* practices, whereas the other respondents each listed just one or several from the list. Since only 39% of courts reported imposing concrete sanctions, the results in table 9.1 indicate that most of the court respondents did not perceive the imposition of sanctions for noncompliance as a typical event at judicial status hearings. Of course, the survey data do not enable determining precisely *why* the other 61% of respondents did not perceive the imposition of sanctions as “typical”; that is, it could be that the court did not generally sanction noncompliance when it was reported or it could be that the court’s offenders were typically perceived to be compliant.

Enforcement of Noncompliance

Figure 9.1 indicates more directly how frequently domestic violence courts impose sanctions in response to a report of noncompliance with court orders. In our sample, 28% of court respondents reported imposing sanctions always, but the percentage rose to 78% when we combined always and often.

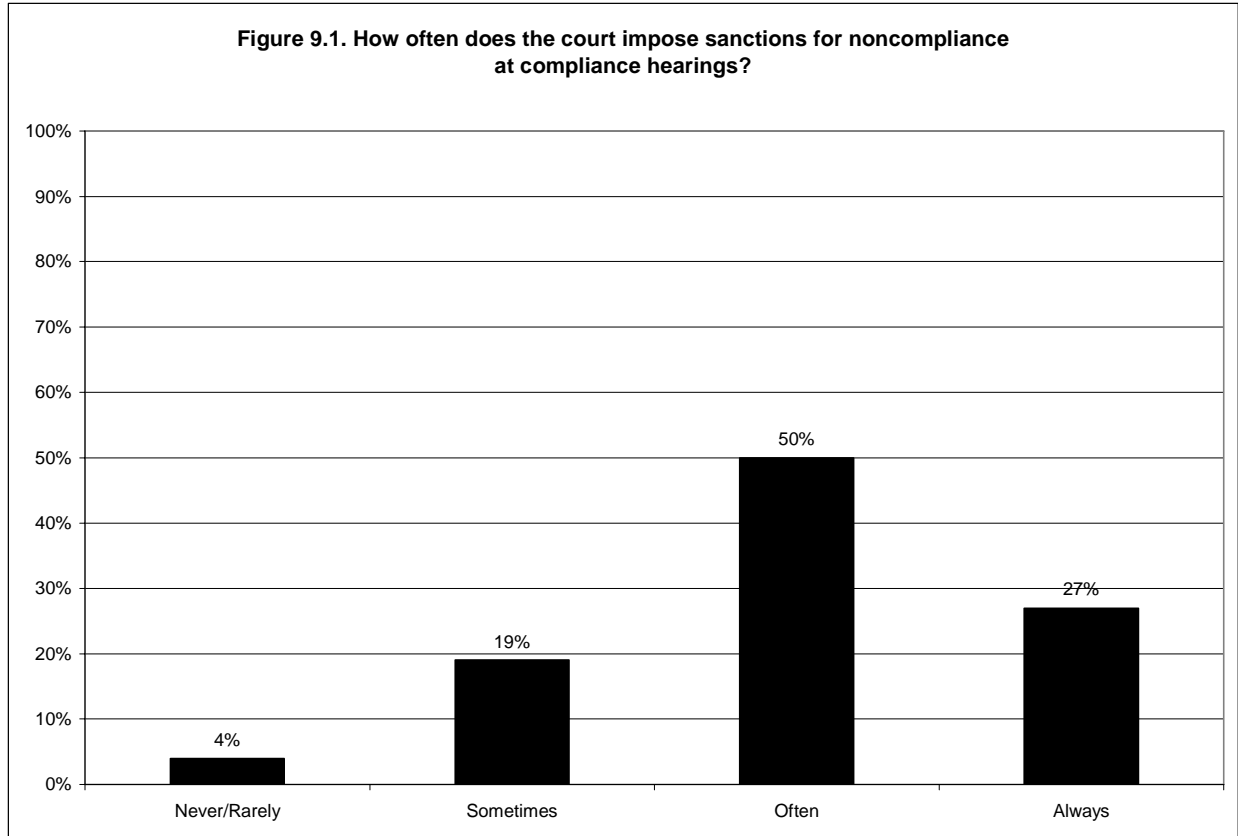


Table 9.2 presents the frequency with which courts reported imposing specific sanctions when defendants are noncompliant with court orders. The most common responses were the least punitive: verbally admonishing defendants (83% responded often or always), ordering the defendants to return to court immediately (73%), and ordering more frequent court appearances in the future (59%). As shown in the table, far fewer courts reported imposing any of a series of sanctions related to increased program attendance. In addition, at the most severe end of the spectrum, 37% of courts reported often or always revoking probation, and only 29% reported often or always imposing jail. If the response category of “sometimes” is included, the data do indicate that the vast majority of domestic violence courts report revoking probation or imposing jail time in at least some cases.¹⁷

¹⁷ The survey responses given by the prosecutors’ offices differed significantly from the courts, with the prosecutors consistently less likely than the courts to perceive that each type of sanction was administered often or always. This discrepancy is consistent with a previous survey on courts’ response to noncompliance in domestic violence cases (Labriola et al., 2007): in that study, court respondents perceived the consequences they imposed for noncompliance to be more serious than prosecutors’ did. As here, the courts and prosecutors were not necessarily in the same jurisdiction.

Table 9.2. Court Responses to Noncompliance with Court Orders or Sentence Requirements

Actions	Always/Often	Sometimes	Rarely/Never
Verbally admonish defendant	83%	12%	5%
Order defendant to return to court immediately	73%	17%	10%
Order defendant to make more frequent court appearances	59%	31%	10%
Order defendant back to program	37%	37%	25%
Revoke or amend probation conditions	37%	51%	12%
Resentence defendant to jail	29%	57%	14%
Order drug test	20%	46%	35%
Order defendant back to program with extra sessions added	18%	37%	46%
Order defendant to restart program	17%	48%	35%
Order defendant to start a new program	5%	51%	45%
Orders defendant to none of these actions	1%	2%	97%

Interviews also revealed clear perspectives on the court’s role with regard to noncompliance. In a phone interview, one domestic violence court administrator expressed the view that bringing offenders back “really shows that the court hasn’t forgotten about them and that we take their crime very seriously.” This person added that “someone is given a set of guidelines and there [have] to be consequences and they need to be measured by the level of noncompliance.” One judge singled out compliance hearings as one aspect of her domestic violence court that worked particularly well because when offenders know they have to come back to court they “get on the ball and do stuff.”

Last, we asked whether the court had a written protocol that prescribed a schedule of sanctions when defendants were noncompliant with a court order, such as an order to attend a program. Sixty-five percent of the courts reported having such a protocol, 24% did not, and 11% were unsure whether they did.

In some domestic violence courts, prosecutors regularly appear on compliance calendars, whereas in others, prosecutors may not participate in follow-up hearings routinely but may be involved to varying degrees depending on resources and the specific matters being heard. Prosecutors may be involved in addressing compliance issues in other ways, including having access to probation or service provider reports, for example.

To better understand the prosecutor’s role in compliance monitoring, we asked prosecutors how often they were involved in shaping the court’s response to noncompliance. Most of those who responded to the prosecutor survey indicated some level of involvement, with 63% of prosecutors answering that they were often or always involved in shaping the court’s response to noncompliance. None of the prosecutors responded that they were never involved and only 7% answered that they were rarely involved.

Given the high percentage of domestic violence courts that order domestic violence offenders to probation, we were particularly interested in understanding the role of the prosecutor in following up when there was noncompliance with probation conditions. When offenders on probation are noncompliant, 50% of the prosecutors reported that they commonly file a charge of violation of probation on the recommendation of the probation department, and 31% reported commonly filing a violation of probation charge at their own discretion based on a review of the information obtained from probation. Only a small percentage of prosecutors (18%), however, reported influencing probation policies regarding what behavior constitutes a violation. It may be that regulations or the statutory framework more often provide guidance regarding such violations – but it is also possible that these decisions are at the discretion of probation officers. Given that probation officers may be the first or only agents to learn of noncompliance following disposition, it is likely that in many instances, they may be largely responsible for determining which violations are heard by the domestic violence court, unless the court regularly hears about defendant behavior on routinely scheduled review hearings.

Factors Associated with Supervision and Enforcement Practices

We sought to understand the contextual or policy characteristics of courts that might be associated with greater use of court supervision and responsiveness to offender noncompliance. (We examined factors associated with the use of probation in chapter 6.) For these analyses, our outcome measures were whether the court often or always employs court supervision, the average frequency of monitoring (coding as “zero” those courts that rarely or never engage in it),¹⁸ whether the court often or always responds to noncompliance with sanctions, and whether the court often or always responds by imposing jail. We examined a number of possible correlates that we thought might be related, including a small number of community characteristics (e.g., state in which the court was located, size of jurisdiction, and case volume), existence of state statutes, select court goals, and select intervening policies, such as the use of program mandates, orders of protection, and specific supervision practices. Partial correlations were run whenever there was a plausible concern that a bivariate result might be spurious, and findings reported below are those that appeared robust after further investigation.

Factors Associated with Court Supervision

We found that the following factors were significantly associated (at least at $p < .05$) with greater use of court supervision (using it often or always or having defendants report for such monitoring on a more frequent schedule).

- **State:** Domestic violence courts in both California and New York were significantly more likely to require defendants to see a judge for regular judicial monitoring and to have defendants report for such monitoring more frequently than in other states. One possible explanation for the New York finding, confirmed in our three site visits there, has to do with the presence of coordinated efforts to promote the use of judicial monitoring within the state’s Unified Court System.

¹⁸ For those courts that reported using judicial monitoring sometimes/often/always but that did not fill in the blank for how often they monitor, the mean value of the frequency of monitoring across courts that did provide the frequency (.9757 times per month) was inputted for the missing value.

- Statutory requirements: Considering the previous finding, we excluded California from these analyses and found a negative relationship between having mandatory sentencing requirements and the frequency of judicial monitoring, which seems to suggest that state sentencing requirements do not promote judicial monitoring per se. The same is true for those states whose statutes specifically require a batterer program with some or all domestic violence sentences; courts in those states were also *less* likely to employ judicial monitoring.
- Domestic violence court goals: The results indicated that courts rating the goal of penalizing noncompliant offenders as more important than other courts were also more likely to require judicial monitoring and to require it more frequently. This relationship is of course a logical one, since judicial monitoring is often expressly used to facilitate the imposition of swift penalties for noncompliance. Courts indicating that fostering expertise in judges was more important were also more likely to require judicial monitoring and to require it more frequently.
- Other court policies: Courts that issue a protection/restraining order at the first domestic violence court appearance were more likely to require judicial monitoring as well as to engage in more frequent monitoring. Courts that regularly receive a report from probation were also more likely to require judicial monitoring. Protection orders, probation reports, and judicial monitoring may all be seen as tools to curtail and monitor offender behavior, so these relationships are not surprising.

Factors Associated with Greater Responses to Noncompliance

We then analyzed what factors were associated with greater responsiveness to noncompliance and found that the following factors were significant (at least $p < .05$):

- State: Domestic violence courts in California and New York were significantly more likely than those in the 28 other states to penalize noncompliance with sanctions.
- Statutory requirements: Mandatory sentencing requirements were not significantly related to the likelihood of responding to noncompliance. The pattern holds for states with statutes specifically requiring a batterer program on some or all domestic violence sentences.
- Domestic violence court goals: Responding courts that viewed accountability and penalizing noncompliance with court orders as goals were more likely than were others to use jail as a sanction for noncompliance. Only the explicit goal of penalizing noncompliance predicted greater use of *any* of the sanctions listed.
- Other court policies: Courts that never or rarely receive a report from probation are less likely to respond to noncompliance with sanctions; conversely, courts that receive reports when there has been a violation are more likely to respond.

Summary

This chapter examined the offender supervision practices of domestic violence courts, both the use of probation and judicial monitoring.

Understanding how domestic violence courts work with probation departments is important for many reasons. There appears to be a sizable percentage of courts that sentence offenders to probation (62% reported to do so often or always); probation is often the entity that requires substance abuse or mental health treatment when the court did not expressly mandate such programs, and victim outreach is quite common among probation officers who work with domestic violence court cases. The most common reasons for contacting victims are to elicit information (46%) and to ask the victim about offender compliance with protection orders (37%).

We also found that almost three-quarters of respondents (71%) reported that their court brings offenders back to court for judicial monitoring at least sometimes; more than half of those courts reported having a separate compliance calendar. In regard to the actions taken during the judicial status hearings, we found there are not any particular strategies that have been universally adopted.

We examined factors that were associated with judicial monitoring and found that domestic violence courts with mandatory state sentencing requirements use judicial monitoring less than other courts. Independently, domestic violence courts in New York and California were more likely to hold judicial monitoring hearings. We also found that the goals of penalizing noncompliant offenders and fostering judicial expertise were associated with a greater likelihood of judicial monitoring.

Regarding the association between judicial monitoring and penalizing noncompliance offenders, 78% of courts that hold compliance review hearings said that they impose sanctions often or always, although the use of the most severe sanctions, such as jail, was not prevalent. We also examined factors that were associated with greater responsiveness to noncompliance and found that courts from California and New York were more likely to use sanctions. Additionally, the court goals of holding offenders accountable and penalizing noncompliance were associated with the greater use of jail as a sanction.

Chapter Ten

Additional Insights from Qualitative Data

Stakeholders offered insight into their experiences with domestic violence courts in interviews during the site visits, responses to open-ended questions on the surveys, and follow-up questions answered in phone interviews. This chapter draws on these data to gain perspective on broad issues that were not incorporated into the preceding chapters, such as challenges and innovations in domestic violence courts, strengths and weaknesses of the model, and lessons learned by those working in or with domestic violence courts.

Overall Appraisal of Domestic Violence Courts

We begin with the general assessment of domestic violence courts volunteered by some court staff, prosecutors, and other professionals in responding to the question of lessons learned through experience with a domestic violence court. These responses are telling reflections of respondents' perceptions but do not have the same internal validity as quasi-experimental data.

One respondent to the court survey wrote, "A consolidated domestic violence calendar is extremely successful in addressing core issues underlying domestic violence." Many respondents agreed with that perception. Particular benefits included reductions in repeat offenses, enhanced victim safety and access to services, and increased community coordination and awareness of domestic violence. One prosecutor noted, "We have learned that our courts are extremely effective."

A dilemma articulated on three surveys deserves consideration not because it was a frequent response, but because it was a thoughtful presentation of a problem confronting all domestic violence courts. These comments referenced the tension between the goal of a domestic violence court to protect victims and the goal of any court to administer justice fairly. As one court respondent wrote on the survey, a challenge to domestic violence courts is "balancing criminal defendants' presumption of innocence and constitutional due process with protecting victims in an adversarial setting." This concern was also conveyed during site visit interviews with defense attorneys, several of whom voiced the belief that defendants in the court were "prejudged" and "presumed guilty" prior to appearing before the judge.

Interagency Coordination

The most common theme cutting across all qualitative data sources was coordination with other agencies. At 10 of the 15 courts that we visited, stakeholders identified coordination as a source of success, and those from four other courts identified the lack of coordination as a source of weakness. Additionally, in response to the open-ended survey question on lessons learned, 22 court respondents identified coordination as an important principle, and six court respondents identified it as a challenge. Fourteen respondents to the prosecutor's survey discussed the

necessity for interagency coordination as essential to the functioning of a domestic violence court. For example, two prosecutors working in different domestic violence courts answered the question “What lessons have you learned that might benefit new domestic violence courts?” as follows:

Coordination, cooperation, and communication among all agencies involved—police, corrections officers, prosecutors, government victim advocates, nongovernmental victim advocates, judges, and probation officers—is essential to most effectively holding offenders accountable.

The police departments, prosecutors, victim advocates, and judges have to be on the same page in order for any prosecution to be meaningful and successful.

Surveys completed by court representatives echoed these sentiments, but with a slightly different emphasis:

Lines of communication internally and externally with area partners need to be established and well maintained. Communication on many levels is vital to these complex cases for safety reasons.

A specialized domestic violence court requires collaboration to succeed. Court administration, public defenders, and local prosecution agencies must support the concept and staff appropriately.

Some survey respondents advised that collaboration must begin at the planning stage. One court respondent wrote, “Involve service providers, police, public defenders, and the DA’s Office in the planning process.” At one site we visited, both the colocation of agencies and the use of technology were identified as integral to successful collaboration. A court representative from another site felt that coordination among partners had weakened since the planning stage, with meetings held only four times a year.

Some of those who saw collaboration as a challenge or who identified a lack of collaboration as a weakness specified a particular agency or entity as not cooperative or not part of the team. Of the six court survey respondents who said a weakness of their domestic violence court was lack of coordination, two identified lack of buy-in from other stakeholders and one specified objections raised by the defense bar. In one of the site visits, the defense bar was described as participating in planning and coordination, but in an adversarial way that was viewed as a problem for that court. In other sites, stakeholders reported that police or prosecutors were not integrated stakeholders. At the most general level, collaboration was viewed as an essential and positive experience.

When we asked about coordination, two different issues were raised in site visits. In one case, the complaint was that victim service agencies and prosecutor offices, even if colocated, are not coordinated in their efforts to provide services and outreach to victims. In another, a judge cited a lack of coordination with family court regarding court orders.

Training and Staff Development

The second most common theme spanning the different open-ended questions on prosecutor and court surveys and in site visits was the issue of training. Survey responses indicated that more than 80% of the judicial officers who are currently assigned to domestic violence courts have received domestic violence training. Nonetheless, concern about judges' depth of understanding of domestic violence was a frequently expressed concern in prosecutor surveys and site visit interviews with nonjudicial personnel. Six prosecutors responding to the "lessons learned" question singled out the need for judges to gain a deeper understanding of both domestic violence generally and of legal issues unique to domestic violence courts. Comments included the following:

[There is a need for] increased training for judges who will be assigned to domestic violence courts on the issues surrounding domestic violence, both legal and psychological.

When victims refuse to cooperate, [judges] often want the state to give the case away.

Judges assigned to domestic violence court must receive adequate training in the dynamics of domestic violence. They must receive training on mandated sentencing.

Training of judges was also mentioned as an issue during site visits, particularly ongoing training: "Train and retrain cops [and] judges" and "train when new judges come on board." According to one prosecutor, a single training may have insufficient depth: "It is important for judges to understand the DA's office philosophy of prosecution. Judges really need more than Domestic Violence 101 before they sit in the court." In lieu of formal training, one court stakeholder advocated "keeping judges informed" of programs and research.

Although judges were mentioned more often in interviews and in the prosecutor surveys as needing training to work in a domestic violence court, they were not the only ones singled out. Prosecutors mentioned that police and court personnel needed training, and court survey respondents mentioned attorneys, including defense attorneys. Court officers, court clerks, and prosecutors were also mentioned during site visits. A prosecutor noted that victim advocates need to learn the criminal procedural law governing domestic violence offenses.

Dedicated Staff

In a survey response, one prosecutor noted, "A dedicated judge is essential." The respondent went on to note that beyond training, expertise is gained through experience:

The experience and knowledge of the [dedicated] judge regarding domestic violence cases and dynamics are the most critical pieces of the puzzle. It is important to have an educated/experienced prosecutor, as well. I am such a prosecutor, but find myself always fighting an uphill battle.

Positive appraisals of dedicated domestic violence court judges due to their expertise were voiced in site visits, with such advantages noted as sensitivity, consistency across cases, firmness, and more referrals to batterer programs. In site visits, stakeholders from four of 15 sites attributed one source of success to having experienced prosecutors or a concentration of expertise in the domestic violence court. Conversely, stakeholders from four other sites mentioned rotation of prosecutors or general turnover in staff as a problem. Although at two sites interview participants suggested that rotation of court officers is a weakness, more often it was the rotation of judges that was cited as a problem. For example, in responding to a question about weaknesses of the domestic violence court in a site visit, one participant said, “Rotating judges: new judge, new policies.” Other survey respondents suggested that this cost of rotation is balanced against burnout.

There were several comments made in the court survey about needing dedicated prosecutors and retaining dedicated prosecutors rather than rotating them out too quickly. One survey respondent referred to non-dedicated prosecutors as the “ADA du jour.” Site visits also elicited discussion of this topic when interview participants were asked about challenges. One participant stated, “ADAs rotate out as soon as they become experienced.” Again, burnout was a concern to a small number of respondents. On the other hand, one prosecutor survey respondent mentioned as a lesson learned that burnout among prosecutors was not as serious a problem as had been anticipated.

A number of survey respondents chose to comment on how judges are selected and assigned to the court. Generally, the comments suggested that judges assigned to the domestic violence court should want that assignment. In part, the tone is set by the court administration: “Judges need to feel that being assigned to the domestic violence part is not a punishment.” In the court survey, responses focused more on a match between the judge and the assignment, as in the following comments:

Find a judge who wants to do domestic violence court. Maybe the same judge that has done drug court.

You need to carefully pick the judge who will preside over the domestic violence part.

[The court is] demanding for participants, therefore careful selection of the judge is key. Look for temperament, training, experience, and willingness to work hard.

Another respondent to the court survey agreed that the domestic violence court is demanding on all staff and advised that the court needs “dedicated staff who handle these cases on a consistent basis. The cases are staff intensive.” Other respondents also commented more generally on the need for all personnel working in domestic violence courts to be invested or interested in the problem.

Consistency through Staffing and Protocols

According to respondents, the advantage of having a dedicated (and experienced) judge was “consistency.” This factor was mentioned on the open-ended questions in five court surveys and four prosecution surveys. One judge poignantly described the importance of this practice:

As a second year domestic violence judge, I have learned never to guess what you are dealing with, but to be consistent in applying your principles. That's how we are able to sleep at night.

Other means of achieving consistency recommended by court and prosecutor survey respondents were having established rules and procedures: "It is important to have established procedures so lawyers know what to expect." One respondent stated,

Being consistent and having some basic procedural "ground rules" is very beneficial. Our court has specific procedures for handling requests to vacate orders of protection as well as procedures for handling violations of the sentence/disposition.

Court survey respondents also acknowledged limitations on consistency: "Be consistent, but one size does not fit all." Advice to judges included approaching each case as unique but always recognizing that there is usually a history of abuse in some form before a case reaches the court. Several prosecutors stressed the importance of being firm but fair, and using open court to demonstrate that domestic violence offenses will not be taken lightly.

Monitoring, Review, and Compliance

The third major theme of responses to open-ended questions was the importance of offender monitoring. Open-ended responses to lessons learned on 19 court and 7 prosecutor surveys focused on monitoring and compliance. Monitoring offenders and compliance with court orders were also frequently mentioned in the court survey as a challenge, in some of the site visits as features of success, and in other sites as weaknesses of the domestic violence court. Clearly, review and monitoring of compliance with court orders is a central feature of domestic violence courts and is related to perceptions of effectiveness.

Compliance and Noncompliance

Most of the successes and failures described in site visits had to do with penalties for noncompliance. Monitoring compliance and penalizing noncompliance was seen as central to the court's role in holding offenders accountable, as in the comment that there is "accountability when [offenders] violate probation." The respondent elaborated that the "violation of probation docket is full," meaning that those who violate probation are returned to the court docket, and the consequences are serious: "Offenders are offered 300 days in jail." Monitoring with sanctions for noncompliance was also seen as an effective deterrent: "Conditional pleas and compliance calendars seem to reduce recidivism," one domestic violence court representative wrote.

Effective Judicial Monitoring

Survey responses from domestic violence courts to the question about lessons learned not only recommended judicial monitoring ("compliance conferences are a valid tool and do work") but also gave specific advice to courts for effective monitoring. The first two quotes below focus on the importance of programs keeping the court apprised of compliance. The next three focus on what should happen in court during compliance hearings.

Remind programs of rapid reporting of noncompliance.

It is necessary to establish a good relationship with program stakeholders who will be directed to maintain the offender's status in writing for the domestic violence court.

Compliance works best when the judge is the one who interacts with the defendant.

Praise compliant defendants and encourage compliant defendants to lead others in the program (by example).

Set the tone early during monitoring so that defendants know the court will sanction to jail if they fail to attend the batterer's program.

Prosecutors were similarly enthusiastic about monitoring and enforcement of court orders as a mechanism of accountability and deterrence, as in this comment:

For our postconviction misdemeanor domestic violence court, the lessons learned are that responsibility and accountability of the abuser requires vigilant monitoring. If handled properly, victim safety is increased and defendant behavior can be modified.

They also found that monitoring and penalties for noncompliance bolstered prosecution and helped the programs working with offenders. Some domestic violence court stakeholders, victim advocates in particular, recommended consistent and strict penalties for noncompliance. Specifically, some felt that jail was not used enough in the domestic violence court. A prosecutor concurred: "Jail is a great motivator. It should be imposed more often than it is to ensure compliance with court orders." Meaningful sentences and consequences for noncompliance were also seen as motivating law enforcement: one prosecutor affirmed that "when police officers learn there is accountability in domestic violence cases, attitudes change."

Challenges: Victims, Timeliness, Programs, and Caseload

Reluctant Victims and Timeliness: Advice for Prosecutors

The primary challenge noted in court surveys was the difficulty of reaching victims and the "fluidity" of victim cooperation, as one response framed it. According to survey respondents, this problem not only hinders prosecution, but it also poses a threat to victim safety when victims seek withdrawal of orders of protection, "identify" with the person who perpetrated the abuse, or refuse to testify.

One recommendation from advocates and prosecutors for addressing these issues was to reach out to the victim at the time of the incident or as soon as possible afterwards (at arraignment or bail hearing) to educate the victim about the criminal court process, and provide "options counseling," which provides victims with information about the choices and services available to

them. In one of the sites we visited, one of the dedicated prosecutors served as a dedicated “witness advocate” and provided precisely these kinds of educational and support services related to the legal process. This site also included dedicated victim advocates who were employed by a local nonprofit agency and whose work complemented the witness advocate by focusing more on counseling, safety planning, and social services beyond the immediate legal process. A second recommendation was to “always be prepared for ‘victimless’ prosecutions” and to “try to resolve cases as quickly as possible; multiple continuances are detrimental to domestic violence cases.” Conversely, another prosecutor claimed, “No-drop policies are not realistic and take away efforts from other cases.”

On many site visits and in the court survey, stakeholders cited early resolution and rapid speed of case processing as an important strength of the domestic violence court. Prosecutors also suggested that quick processing of cases achieves better results. One prosecutor went so far as to say, “Time is our enemy.” Two prosecutors indicated on their surveys that they had learned the importance of flexibility and creativity. As noted earlier, five prosecutors reported that in their estimation, expedited prosecution and few continuances produce better results.

Programs for Offenders

Some stakeholders recommended increased mental health evaluations and use of drug and alcohol treatment programs as a condition of probation. A few believed that their jurisdiction lacked sufficient resources in regard to offender programs, and a few believed that batterer programs were not effective. Other stakeholders saw offender programs as a beneficial alternative that improves outcomes, with a stakeholder at one court claiming that the domestic violence counseling program (batterer program) reduced recidivism by about 70%. At the same time, responses to the court survey urged caution: “Beware defendant manipulation” and have “stricter guidelines for treatment programs.” Two responses decried the “one size fits all” approach of batterer programs, with one respondent stating,

I would like to see a mandatory assessment process for each domestic violence offender not done by BTP [batterer treatment program] provider. I’m not convinced that [a] 52-week program is necessary in all cases. Just as substance abusers require different levels of treatment, so do batterers.

A challenge mentioned by seven court survey respondents is that defendants often cannot afford programs and therefore were unable to comply with court orders. One saw this problem of noncompliance due to inability to pay as exacerbated by the current economic crisis.

Volume and Adequate Staffing

The knowledgeable staff and informed decision making that stakeholders perceived as the great advantages of domestic violence courts can be undermined by the sheer volume of cases. On the court survey, seven respondents identified volume as the primary challenge, with two commenting that the caseload in the domestic violence court prevented adequate case review and implementation of judicial monitoring.

Framing the issue of caseload differently, 15 court survey respondents identified inadequate staffing—or lack of funding to staff the domestic violence court adequately—as the primary

challenge. Four specifically mentioned lack of funding for probation supervision, eight identified lack of resources for offender programming, one identified insufficient services for victims, and others mentioned needing more domestic violence court services and more clerks. In site visits as well, the need for more victim advocates and more probation officers was frequently mentioned. In one site, again, the comment was made that judicial monitoring was ineffective because the caseload was too high and there was inadequate time allotted for each case. In another, the problem was that the prosecutor's office has insufficient staffing, money, and technical assistance, and in another, the resource coordinator's caseload was too high, prohibiting tracking and monitoring.

Other courts that apparently had adequate resources found that their successes could be attributed to just these features: probation, services for victims, cooperation among multiple agencies that helped victims escape abuse, effective monitoring and frequent case review, and programs for offenders. One stakeholder mentioned that, contrary to expectations, having a domestic violence court actually lightened the overall criminal court caseload because the resource coordinator was able to relieve the burden on the courts. This stakeholder did not fully explain the observation, but the point appears to be that the establishment of the domestic violence court provided justification to hire a dedicated resource coordinator, whose efforts in turn alleviated some of the strain on other court staff.

Another court dealt with the case overload issue by capping the number of cases from the start; they took only as many cases into the domestic violence court as they estimated they could handle given the staffing and then gave those cases more intensive attention than they would have received in a nonspecialized court.

Additional Recommendations for New Domestic Violence Courts

In addition to the overall appraisal and other issues described above (coordination, training, monitoring, expedited case processing, and programs), the surveys generated ample additional advice and recommendations for new courts, from planning and start up to prosecution strategies and sentencing.

Preparation, Planning, Start up, and Maintenance

Some survey responses talked about preparation in the form of research and seeking or developing expertise. A prosecutor advised new courts to “copy someone else’s. . . learn how to write grants, bring in [a] local university for data collection,” and “train law enforcement and judges.” Preparation was also advised on a court survey: “Read all studies and analyses of domestic violence courts.”

The main advice about planning was to involve all stakeholders (echoing the paramount theme of coordination), as one court respondent stated on the survey,

Working together with all justice partners makes a big difference. Invite their comments and ideas before establishing a domestic violence court and meet with them regularly once one is set up.

Similarly, during an interview, one judge advised bringing all players to the table at an “earlier stage” of planning to avoid “a lot of ticked off people” and “sabotage.” Stakeholders from two courts noted the wide array of stakeholders that must be included for the court to function effectively and recommended incorporating them from the beginning, including court administration, court clerks, probation, prosecution, defense bar, batterer programs, and law enforcement. Other courts added services for women, and for children. A stakeholder in an interview also noted that it’s important to “thoroughly define the role of all those” working with the court. Another noted that it is helpful if operational leadership comes from the presiding judge.

Stakeholders recommended written policies, including court policies for partner agencies such as probation, prosecutors, batterer programs, and victim advocates. One prosecutor recommended having aggressive prosecution policies in writing. A court representative advised, “Make sure that you have a framework in place prior to starting the court.”

To maintain successful practices, many respondents emphasized training and coordination among key professionals to discuss issues and concerns: “Train and retrain everyone, maintain lines of communication, and meet often.” A few stakeholders also recommended vigilance: “Keep trying to improve all services,” “Keep asking why we do things in a certain way,” and “Always review what you are doing with the team you work with. You need to constantly make sure your court is doing the best it can for the victims.”

Some of those surveyed also offered advice on the spirit needed among people working in domestic violence courts: “Be patient,” recommended one court respondent. Several advised “patience” specifically as a necessary posture in regard to victims, to understand why they may want the charges dropped.

Summary

Stakeholders expressed strong support for their domestic violence courts and advised patience as a temperament best suited to working in it. Based on our qualitative data, the most important feature of a successful domestic violence court appeared to be engagement of all court and community partners from the planning stage onward. Ongoing stakeholder meetings were deemed necessary to address issues as they arise. Dedicated personnel develop expertise, but numerous stakeholders emphasized the importance of training and retraining to ensure that such experience is maintained. Indeed, rotation policies were identified as potentially thwarting the maintenance of expertise. Stakeholders believed that experienced prosecutors should be assigned to the court and that judges assigned to the domestic violence court should be interested in that assignment.

In terms of specific policies and practices, many stakeholders believed that having a specialized court makes referrals to programs more efficient and reliable. In addition, stakeholders strongly recommended judicial monitoring, with the judge directly interacting with the offender and imposing penalties for noncompliance with court orders to programs. Those who were satisfied with their implementation of monitoring viewed it as a strength, while several others lamented the lack of effective monitoring at their court. Those who responded to the survey recommended

having written policies to maintain consistency in monitoring and in responding to noncompliance, especially for smooth transfers when new judges take the bench.

Stakeholders viewed the primary challenges as the high volume of cases, demands on staff, lack of sufficient dedicated staff, and the difficulties of prosecuting when victims do not participate. Stakeholders from those courts where interagency collaboration was deemed inadequate also tended to view this as a challenge, as did stakeholders from those courts that had not fully developed their approach to compliance monitoring.

Some perceive an inherent tension in domestic violence cases between adequately addressing victim safety and protecting defendants' due process rights. The defense bar appears more likely to be dissatisfied with the approach being taken and unlikely to participate in efforts at coordination. They may believe that the domestic violence court is biased toward alleged victims and treats defendants as though they had already been found guilty. Effective court and community responses in this area may require attention to ensure a balanced approach.

Chapter Eleven

Conclusions and Implications

For the better part of the 20th century, crimes of domestic violence were considered a problem of the private sphere, and legal or social support for victims of these crimes was all but nonexistent. Beginning in the 1970s, however, feminists and battered women’s activists contributed to a growing public awareness of domestic violence as a widespread social problem. Along with community-based services for victims, legal responses began to develop across the United States. Early efforts included the provision of civil orders of protection, mandatory arrest policies, and the development of state statutes specifically requiring certain case processing routines or sentences for domestic violence crimes (e.g., assault, harassment, and later stalking). These legal responses evolved alongside a social advocacy movement to provide domestic violence victims with needed services such as shelter, safety planning, financial assistance, and supportive counseling. Criminal domestic violence courts are in many ways an effort toward the unification of these social and legal strategies. At least within the criminal justice system, this new experiment in justice represents an increasingly widespread response that aspires to offer a “coordinated” professional approach to the complex problem of domestic violence.

At a minimum, criminal domestic violence courts docket domestic violence cases separately and feature a dedicated judicial officer. Within this structure, we can see reflections of the broader specialized court movement (e.g., drug courts, mental health courts, or community courts), which also helped set the stage for the growth of domestic violence courts. Our research identified 338 *potential* domestic violence courts, although in many cases, the identified courts had established policies related to handling domestic violence cases that did not in fact constitute a specialized court approach.

We received survey responses from 129 courts whose answers made clear that they were in fact criminal domestic violence courts. Follow-up with courts that did not respond to our survey led us to identify 208 currently operating domestic violence courts nationwide as of 2009. We have confirmed that there is at least one domestic violence court in 32 of the 50 states, and another in the territory of Guam. At the same time, domestic violence courts have not developed evenly across the country: nearly two-thirds of the identified domestic violence courts are in just five states: New York State (63), California (34), Florida (14), Michigan (13), and North Carolina (11).

These findings nonetheless suggest a trend toward establishing domestic violence courts despite the lack of national oversight or a network of such courts. This study produced a compendium of domestic violence courts to facilitate networking and information sharing (see Center for Court Innovation 2009). We hope that the findings in this report will provide useful information that will allow domestic violence courts to learn from each other, develop best practices (or at least a more consensual set of recommended practices), and increase the consistency of practice implementation within and across jurisdictions.

This chapter provides an overview of the findings framed in a larger discussion of how they may benefit jurisdictions that are planning new domestic violence courts, existing domestic violence courts that are interested in modifying policies or practices, and those that hope to begin networking with other professionals involved in domestic violence courts. In addition, we discuss possible implications for future policymaking and research.

Key Research Findings: Summary

Key Findings: Court Goals

For both domestic violence courts and prosecutors' offices working with domestic violence courts nationwide, victim safety and offender accountability were nearly universal goals. Understanding that accountability can be a term with many definitions, through site visits and follow-up interviews we learned that, for many courts, accountability means showing domestic violence offenders that domestic violence is taken seriously by the court and noncompliance with program mandates will result in swift and certain consequences. Stakeholders variously cited effective probation monitoring as well as the judicial monitoring of offenders as important tools for promoting accountability.

Many stakeholders also reported that the work of victim advocates both within the courts and in prosecutors' offices is critical in advancing victim safety. Interestingly, different stakeholders pointed to the use and enforcement of protection orders as essential practices in furthering both victim safety *and* offender accountability. Finally, most survey respondents also rated "detering recidivism" as an extremely important goal, viewing it as an indicator of victim safety.

This study also found clear associations between goals and practices, suggesting that stakeholders in many courts were taking concrete steps to implement the goals they valued. For instance, courts whose respondents viewed accountability as more important were also more likely than other courts to use jail as a sanction for noncompliance. Jail sanctions were also significantly more likely to be imposed by courts that rated "penalizing offenders" as a more important goal. That goal was similarly associated with greater use of judicial monitoring, a supervision mechanism that may be seen as facilitating court knowledge of noncompliance and, consequently, the imposition of penalties.

With respect to victim safety, we found that courts stressing victim access to services and achieving a coordinated response to domestic violence were more likely to have a dedicated victim advocate working in or with the court. Courts that viewed offender rehabilitation as a goal were more likely to order a batterer program or probation at sentencing, again suggesting an effort to develop practices that might advance the court's goal.

Key Findings: Diversity in Domestic Violence Court Models and Daily Practice

Although we found a surprising level of consensus concerning the major rationales for instituting a domestic violence court, there was also great diversity in how courts prioritized a host of other goals, from fostering judicial expertise to applying state statutes to achieving a coordinated response to domestic violence. There was also a great deal of diversity in how the courts were set up, what a typical case might look like, what particular services were available for victims, and what kinds of sentences and conditions might be imposed on offenders.

To begin with, we found little consistency in terms of how cases are identified for transfer to the domestic violence courts, with some courts using the type of offense committed as the determining factor (a domestic violence offense defined by statute) and others using a court-specific definition of an eligible relationship between the defendant and alleged victim. Additionally, courts were divided on typical sentencing and compliance strategies. For example, slightly more than half the courts that responded to our survey reported that they order batterer programs often or always, while more than 40% reported they order them rarely or never. Finally, although a majority of courts reported using some form of judicial monitoring, some reported a separate compliance calendar and others did not. There was a wide range in the frequency of judicial monitoring, with offenders appearing anywhere from twice per month to only four times per year, and a wide range in the content of judicial review hearings, specifically in the kinds of surveillance, communication, and sanctioning strategies employed by the judge during a typical hearing.

In regard to victim safety, we also found a diversity of approaches. Although a number of courts reported that they discourage victims from attending court to protect victims' safety, most also reported a variety of reasons that victims may need to visit the courthouse. While many courts described efforts to protect victims, others do not provide basic services such as safety escorts or separate waiting areas due to lack of resources or other unknown reasons. Courts take a variety of approaches to victim advocacy, with some courts offering services such as counseling, childcare, and safety planning at the courthouse and others preferring victims to work with advocates offsite.

The diversity of court policies and practices could have a number of causes, including different levels of resources, including staffing and case volume, different statutory requirements, preferences of key stakeholders, or local needs of victims and offenders. However, even among the court models we found, we noticed that stakeholders often gave similar responses to overarching questions: How and why has your court been successful? What are your greatest challenges? What recommendations would you make to a new court? These findings are summarized below.

Key Findings: Successes, Challenges, and Innovation

We found that many courts linked overall success to a thorough and inclusive planning process, which includes thoughtful analysis of case identification and transfer (in jurisdictions that do not have state guidelines), adequate staffing and other resources, identification of local stakeholders, and the establishment of clear and effective protocols. Additionally, stakeholders identified knowledge of and sensitivity to the dynamics of domestic violence among staff and judges as an important component of a successful court. Some respondents specified that this sensitivity should be achieved through special training. Finally, respondents typically described cooperation and coordination with outside agencies, particularly batterer programs, local police, probation departments, and victims services agencies, as critical to their success.

Probably the most frequently reported challenge was the difficulty of involving victims in prosecution. Across the board, courts reported that victims commonly wish the charges to be dropped in their cases, with some courts responding by instituting a “no-drop” policy and others

making decisions case-by-case. A great many respondents also identified a lack of time and resources, particularly for victim services and for effective offender monitoring, as a major challenge.

Innovations reported by courts and prosecutors on surveys and in interviews reflected efforts to solve commonly identified “challenges,” many of which are noted above. While innovations tended to be more specific and less thematic than challenges and successes, a few innovations employed by different courts had important elements in common. For example, two practices dealt with victims who want to modify or drop an order of protection: one court reported that victims are encouraged to attend a safety planning course before the court will approve a request to drop an order of protection; another said that the court encouraged women to see a victim advocate before modifying or dropping an order of protection. One court added a dedicated police officer to its team in an effort to shore up evidence collection and increase convictions. Several respondents described the creation of a “court coordinator” or “defendant monitor” role as an important addition to their model to improve the tracking of offender program progress and compliance. Finally, the implementation of assessments for mental health and substance abuse was mentioned in surveys and site visit interviews. Some felt that tailoring programs to individual offender needs enhanced chances for behavioral change.

Implications: Research Results and “Recommended Practice” Development

We believe that knowledge of some of the innovations and strategies utilized to pursue goals and overcome obstacles could be useful to domestic violence courts as a whole. Additionally, our research identified correlations between some court practices (e.g., frequent judicial monitoring, dedicated victim advocates) and goal priorities (e.g., accountability, victim safety). These correlations could be potentially useful to courts just starting out as well as those wishing to modify practices that are not achieving desired outcomes. Domestic violence courts that are being planned may benefit from explicitly deliberating upon and prioritizing their overarching goals and then incorporating strategies that other courts have utilized to pursue those goals.

In short, we hope that this portrait of domestic violence courts, in conjunction with our published compendium of domestic violence courts, may provide a first step toward forming nationally shared “recommended practices” for domestic violence courts as well as a basis for forming a network of professionals who can continue to work together toward shaping these practices.

California and New York

Although domestic violence courts have now spread to most states, California and New York remain home to a remarkably large proportion of these courts. Due to the facts that these states were among those selected for site visits, and their representation in our respondent sample was high even in proportion to their high numbers, some findings may reflect the particular policies, goals, and challenges of courts from these states. In our analysis of quantitative data, we sought to control for but also to reflect upon these effects, leading to some interesting results.

In California, the role of statutory requirements is critical for understanding the development of domestic violence court policies and practices. Under California Penal Code section 1203.097, a 52-week batterer program, probation, restitution, and fines are all a part of the sentencing requirement. In our research, we found that domestic violence courts in California were

significantly more likely than those elsewhere to report often or always mandating offenders to batterer programs, probation, and incarceration, as well as imposing protection orders. Domestic violence courts in California were also significantly more likely than courts in other states to require defendants to see a judge for judicial monitoring. Because many other domestic violence courts are in states with mandatory sentencing prescribed for domestic violence cases, courts in California are in a position to provide information on the development of policies that work well in this context.

In New York State, the Unified Court System has worked extensively over the past ten years to plan and implement New York State's domestic violence and integrated domestic violence courts. Often in collaboration with technical assistance staff at the Center for Court Innovation, New York has developed a relatively standardized set of planning documents, practice recommendations, and messages that are disseminated to court stakeholders through trainings. It is possible, for instance, that the state's coordinated efforts to promote the use of judicial monitoring led to the finding that courts from New York made greater use of such monitoring than elsewhere. Courts in New York were also especially likely to report imposing protection orders, but were especially unlikely to use incarceration and probation sentences. Other findings reported in chapter 4 reflect a broad focus on offender accountability in New York and a related tendency, in practitioner documents, to define program mandates less as tools for rehabilitation and more as monitoring tools to be coupled with judicial monitoring. Courts in other states may be able to learn from some of New York's (at least relatively) coordinated set of practices, and New York's domestic violence courts can benefit from broader networking on a national scale.

Study Strengths and Limitations

This study illuminates the general state of domestic violence court policies and practices. The use of a national sample of domestic violence courts identified across a large number of states gives us substantial external validity. Our national scope also avoids two frequent and related criticisms of criminal justice program evaluations: that the results apply only to the few sites selected for analysis and that the study fails to account for the policies and experiences of smaller, more rural jurisdictions. Such criticisms are a special concern with regard to domestic violence courts, whose models vary a great deal and whose research literature has, perhaps not surprisingly, yielded inconsistent findings on a great many points, as documented in chapter 2.

A second strength of the study was the inclusion not only of the perspective of criminal courts, but also of prosecutors' offices, which often play an important role in formulating policy responses to intimate partner violence. Finally, the study was conceptually precise in developing a clear operational definition of domestic violence courts as well as using language that was transferable across jurisdictions. Although restricting our sample as compared to several previous research efforts, our exclusion from the final analysis sample of courts that did not meet a minimal definition (specialized calendar or dedicated judge) enabled us to zero in on the unique issues that confront criminal domestic violence courts as opposed to other court-based strategies for handling domestic violence cases. We achieved the development of general definitions through the collaborative nature of the research team and the use of site visits and phone interviews. These qualitative methods also allowed us to provide more in-depth information than we would have had if we had simply relied on the self-reported survey answers. The survey

instrument was broad and attempted to collect information on a large number of issues, policies, and practices. Between the survey and other data collection methods, we were successful in gathering both a breadth of general court information and an in-depth look into numerous individual courts.

The clearest challenge, because there was not a preexisting list of domestic violence courts, was the development of a national compendium. We relied heavily on administrative offices in each state, domestic violence coalitions, two previous research efforts, and other problem-solving court initiatives to gather information, but in the end also relied partly on internet research to determine the number and location of domestic violence courts. Although we believe that this approach led to the identification of most of the domestic violence courts that exist, this type of blind research also led us to identify many courts that were not domestic violence courts. In fact, almost a third of the courts that responded to our survey (31%) did not ultimately meet the criteria that, in planning the project, we viewed as a conservative and minimal threshold for defining a domestic violence court. Therefore, we cannot be certain if the non-responders were or were not domestic violence courts, creating unanticipated difficulties (that the research team is still addressing) in constructing a final, accurate compendium.

A further limitation stems from the role of other agencies in many sites. We did not survey probation departments or defense attorneys directly because we concluded that the court respondents and prosecutors were in a position to provide a sufficient description of their relationship. Further, the role that probation and defense plays varies widely across jurisdictions, and it would be difficult to capture that variability through a national survey.

We see the preceding issues as presenting the most important limitations, but there are also other limitations. One concern stems from our sample size and statistical power. We attempted to survey 338 courts. Because not all responded, and because a large number that did respond were not domestic violence courts, the final sample size for analysis was 129. In addition, since several prosecutors' offices worked with multiple domestic violence courts and prosecutors had a lower survey response rate, the number of valid prosecutor surveys was 74. This outcome led us to make less use of the prosecutor data than we had anticipated.

Need for Further Research

The previous section on the major findings presented several suggestions for future research. This section reviews directions that we consider particularly important. By providing researchers with a better picture of the range of practices now in use, future studies can now take into account more court-level characteristics. Instead of testing the outcomes usually investigated in single site studies, i.e., reduced recidivism, increased victim services and increased sentence severity, researchers can situate their sites in a national context. Based on the prevalence of their sites' goals and policies nationwide, researchers can form appropriate hypotheses for areas where their sites may or may not be likely to outperform others.

This study also suggests the need for more in-depth research on the role of specific practices. For example, we found that 56% of respondents to the court survey reported that assessments of offenders are conducted at least sometimes. About half (53%) of these respondents indicated that

standardized tools were utilized; another 36% did not know how assessments were conducted since the assessments are performed by other agencies. Further research should be conducted to learn more about the use of assessments, what instruments are being used, and how results are applied (such as to determine program assignment or sentencing conditions).

Among other practices, the impact of different methods of selecting and rotating domestic violence court judges, prosecutors and other key personnel is an aspect court policies that appears to have a strong effect on court functioning and deserves future research. It would also be interesting to compare victim perceptions of safety and outcomes given different levels of victim assistance, whether services are provided on-site or off-site, and by advocates employed by the prosecutors' office or by advocates working for independent agencies. Further investigation into monitoring clearly needs to be conducted, including the range of frequency of required court appearances and types of interactions, with the ultimate goal of establishing standards and determining the most effective schedule. Finally, further research can evaluate the effects of state statutes on sentencing as well as the effects of specific court practices on recidivism and victim cooperation.

This project focused solely on understanding the development and characteristics of criminal domestic violence courts nationally. It did not attempt to investigate the characteristics of the defendants or limitations on the courts' ability to respond to cultural or language differences. Future research should include examination of the defendant population in criminal domestic violence courts and whether there are specialized court practices or procedures that are responsive to this population. In addition, future research should establish a clearer understanding of how the local civil court's response to domestic violence interacts with criminal domestic violence courts.

Implications for Policy and Practice

As a comprehensive source of information reflecting the realities of current court practice, this report can help trainers, justice administrators, and other practitioners to make realistic assessments and develop promising strategies to achieve court goals. In addition, the compendium of domestic violence courts in each state will allow state court systems, bar associations, victim advocacy organizations, and others to identify and remain informed about local domestic violence courts.

Moreover, we hope that this research will allow domestic violence courts to identify and contact each other, facilitating informed exchange and cross-fertilization as each site's stakeholders see where they fit in the national landscape. One potential use is for domestic violence courts to identify other sites with similar goals but perhaps alternative ways of implementing them. Courts that have particularly comprehensive or robust models—either overall or within a key practice domain—might become mentor sites to newer courts and their partners. In effect, chapters seven through nine in this report sequentially review the national distribution of practices in the three key domains of victim services, offender programs, and compliance monitoring, perhaps setting the stage for development of mentors and models in each area. In addition, chapter 10 outlines general challenges and needs to consider in any planning process. Throughout the report, the role of state statutes emerges as another key area for exchange and discussion.

Therefore, we hope that these results constitute a modest step in stimulating the field to develop a domestic violence court model that reflects best practices and to develop a national dialogue regarding issues and concerns that domestic violence courts encounter.

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Appendix A

Site Visit Interview Protocols

Note: Different protocols were devised for the following stakeholders: Judge, Court Staff, Prosecutor, Defense Attorney, Batterer Program Representative, Victim Advocate, and Probation Officer. Most of the questions were similar for all of the groups; however, specialized questions were developed as well and can be found at the end of this document. This appendix provides a complete set of domains/questions.

Planning and Evolution (*ask only if the respondent was involved at the start-up or is well informed*)

- When did the DV court open?
- Which stakeholders provided the impetus for the DV court? (where did the push come from: e.g. victim advocates, state court administrator, local court or judges, prosecutor)
 - a. Who else supports the DV court?
 - b. Did any constituents oppose the DV Court or do they oppose it now?
- Was there a formal planning team: what roles or agencies were represented?
- Was there special funding to open the DV court? What did the funding support and what was the funding source?
- Was technical assistance provided or experts? If yes, were these sources used? Were they helpful?
- Were articles or manuals provided? If so, what and were they helpful?
- Was there any guidance from the state? If yes, which offices or agencies?
- What kinds of issues were discussed or debated during the planning process? Which stakeholders tend to take which side in the discussions?
- What modifications were needed from the original plan and why? Probe: to improve practice, handle unanticipated problems, lack of resources, requests from partners.
- How has the court changed over time? (*probe for: issues that weren't working optimally, stakeholder requested a change, capacity to take on more cases/different types of cases*)

Stakeholders and Partnerships

- Which agencies have a representative present at court sessions?
 - District Attorney's Office
 - Defense bar
 - Probation
 - Victim advocates
 - Batterer program
 - Police department
 - Others: _____
- Are there DV court stakeholder or team meetings? If yes,
 - a. How often?
 - b. Which agencies and partners participate?
 - District Attorney's Office
 - Victim assistance agency

- Batterer program
 - Probation
 - Parole
 - Defense bar
 - Substance abuse treatment provider
 - Mental health treatment provider
 - Child protective services
 - Housing service providers
 - Civil legal assistance providers
 - Police department
- c. Who coordinates team meetings? Who sets the agenda?
- d. Who is included in the decision-making process related to DV court practices or procedures?
- e. What is discussed in meetings? Are there conflicts among partners? How are they resolved? What issues are debated?

Domestic Violence Court Staffing and Resources

- Who staffs the domestic violence court? (*probe for: project coordinator/director, dedicated judge, dedicated DA/ADA, dedicated public defender, resource coordinator, defendant monitor, case manager, probation officer, victim advocate, other victim services representatives, court clerk, security officer, batterer program? other – probe for # of persons in each role; probe to clarify if each staff member is dedicated to the DV court full-time or, if not, what % of time*)
 - What is the role of each staff member listed above and are they present at court sessions?
 - How long has the judge(s) been assigned to the DV Court? How is assignment determined: volunteers, rotation? How often does reassignment take place?
 - In general, are the DV court's staffing needs met or unmet? (*probe for the nature of unmet staffing needs; or areas where staffing is adequate*)
 - In general, are technology needs met or unmet?
- a. Does the court have a management information system for tracking case-level data such as case outcomes, litigant characteristics, program mandates, appearance dates, etc.?
- Does the court have regular team meetings/staffings? If yes, who attends and what is discussed.
 - How do domestic violence court staff communicate with each other (probe for information sharing protocols, clarity of roles, conflicts in court goals, operations, etc.)
 - What are the resource needs of the court other than staffing/overhead (e.g. drug tests, psychological evaluations)?

General information about the Court and Person Interviewed

- Personal information:
 - a. What is your name and title?
 - b. How long have you worked in that capacity?
 - c. How long have you worked in the court?
 - d. Is your role dedicated to the DV court? If not, what other courts do you work in and what percent of your time is dedicated to the DV court?
 - e. How did you get the DV assignment (volunteer, rotation, assigned)?
 - f. *Other than judge:* What is your role in the DV court?

- DV Court jurisdiction and case types:
 - a. What is the jurisdiction (city, county, other)?
 - b. How many judges work in this jurisdiction?
 - c. What kinds of cases are adjudicated in this court overall in terms of charges? Does the court adjudicate felonies? Misdemeanors? Lesser offenses (e.g., in New York, violations?) Does it hear any civil cases?
 - d. Does the court handle all criminal DV cases? All criminal matters in DV cases?
 - e. Does this court handle any non-DV matters? For example, if a defendant has a non-DV case concurrently with a DV case, will the non-DV case be moved to the DV court?
 - f. What is the definition of DV used in the court? Does it include same sex cases, other family relationships besides intimate partner?
- DV Court Caseload:
 - a. What is the total number of pending cases currently?
 - b. How many new cases are sent to the DV court annually (*allow to answer by month or quarter to arrive at annual total*)?
 - c. What is the calendar schedule for the DV court? (e.g., 5 days/week; 1 day/week; 1 afternoon/week, etc.)
 - d. Are there multiple domestic violence criminal courts or calendars in this jurisdiction or just one? If yes, how many? Do they differ in any way (types of cases)? How are cases assigned to each court?
 - e. Besides the domestic violence court, does this court have any other “problem-solving” or other specialized courts? If yes, what are they?

DV Court Goals and Objectives

- Why open a DV court? What are the DV court’s goals as you see them? *For each goal enumerated, probe to clarify its meaning – what policies would be necessary and what evidence would be necessary to determine success or failure at achieving the goal?*
- Have you attempted to measure whether the DV court has attained any of its goals? If yes, what did you find? If no, what measures might help to evaluate the DV court.
- Has there been a change in the numbers of trials in the jurisdiction for DV cases since the establishment of the DV court?
- What do you see as major differences between a DV court and a non-DV court in handling DV cases?

Case Identification and Screening

- Who identifies cases as involving domestic violence? (*probe for: police report, prosecutor, court clerk, other*)
- Does your office have written policies about case eligibility and screening? *If yes, obtain a copy.* To what extent do daily operations reflect these policies?
- At what stage(s) of case processing does screening take place?
- At what point are cases transferred to the DV court? (pre-arraignment or post-arraignment? How?)
- Can a domestic violence case be disposed prior to being assigned to the DV court (e.g., can a defendant plead guilty at arraignment, prior to be assigned to DV court)?
- Concurrent DV cases:

- a. Is a check done for concurrent criminal cases in other courts or jurisdictions? If so, who does it and is the court informed?
- b. Is a check done for concurrent civil cases (e.g., civil OP's?) in other courts? If so, who does it and what impact might it have on the criminal case?
 - Other issues:
 - a. Do you have a formal assessment tool to determine substance abuse or mental health problems?
 - b. What proportion of defendants have substance abuse or other mental health problems?
 - c. Does your jurisdiction have mental health and/or drug courts? If so, how might a defendant in a DV case and these issues end up in one court or another?

Pre-Disposition Domestic Violence Court Policies

- Describe any use of bail and bail conditions or other special conditions during the pre-disposition period – for misdemeanors, felonies, violations?
- Describe any use of pretrial diversion programs.
- Does the court require pre-disposition court appearances for reasons other than to address dispositional issues (e.g., compliance checks)? If yes, how often?
- Describe the typical course of a domestic violence case (*probe for: number of court appearances, duration of the case, common reasons for adjournments or postponements*)

Disposition and Sentencing

- Describe the most common dispositions – e.g., pled guilty, dismissed, or other types of dispositions (e.g., ACD in New York State)?
- Approximately what percent of cases are dismissed? What are the typical reasons?
- Approximately what percent of cases go to trial? Which case characteristics tend to result in trial?
- Sentencing options:
 - a. Describe options for violations, misdemeanors, felonies.
 - b. What factors lead the court to choose one sentence over another (e.g., factors related to the legal merits of the case; defendant psychosocial assessment; prosecutor recommendation; defense recommendation; other factors)?
 - c. Are there any standard policies related to sentencing that your DV court follows (e.g., all cases meeting a certain criteria must be sentenced to probation? must attend a batterer program? Other policies?)
 - d. Who generally recommends the sentence? (*Probe for: how influential the DA's recommendation is, how influential the defense attorney is.*)
- Are there any state or local laws that prescribe the use of certain specific sentences with DV offenders? Please explain what these laws do and don't require.

Assessment

- Formally or informally, does any DV court staff member conduct any type of defendant assessment? If yes, probe for details.
- Are there procedures for identifying high-risk or low-risk offenders?
- Do you use any formal tools to assess defendants for service needs, or about other issues?

Programs for Offenders

- Does the DV court mandate offenders to programs? What types of programs? For each type of program mentioned, ask:
 - What are the typical characteristics of offenders mandated to this type of program?
 - In specific cases, who usually recommends the type of program (if the court uses more than one type): judge, resource coordinator, prosecutor, defense, other?
 - Rationale for using it (*probe for: rehabilitation, hold accountable for offense, monitor offender – and obtain further explanations as to how these goals are achieved if subjects simply invoke catchwords without elaborating*).
 - What is the typical frequency and duration required?
 - How many community-based providers are available for this type of program? Do the providers have any important differences in their philosophy or approach?
 - To what extent do defendants' substance abuse and mental health issues affect prosecution strategies, goals, and recommended program options?
 - What is the legal status of the program mandate (e.g., part of probation sentence; part of conditional discharge, varies by case, etc.)?
 - Does compliance with a program mandate lead to a change in the final disposition or sentence of the case?
 - Are defendants re-sentenced if they are noncompliant with a court order to complete a program (*probe: to probation? to jail and, if so, how long is common?*)
 - If yes, defendants are resentenced, are there particular actions that might lead to a re-sentence or other consequence?
 - Do any state laws or regulations constrain or govern the use of programs? Which types of programs can be used and length of mandate?
 - Are programs ever required pre-disposition, e.g., as a condition of pretrial release?
 - Are programs mandated post-disposition? If yes:
 - a. What is the legal status of the program mandate (e.g., part of probation sentence; part of conditional discharge, varies by case, etc.)?
 - b. Non-compliance with program mandate:
 - i. Can defendants be re-sentenced if they are noncompliant (*probe: to probation? to jail and, if so, how long is common?*)
 - ii. What forms of noncompliance might lead to a re-sentence or other consequence?
 - iii. Do you have a formal protocol dictating the consequences of various offender infractions or violations of their program responsibilities? If yes, please explain it.
 - iv. What are defendants told about their program responsibilities? By whom? Are they given any written materials (if yes, obtain a copy)?

Defendant Compliance Monitoring

- Do defendants have to report regularly to court? If yes:
 - a. Does monitoring occur pre- or post-disposition or both?
 - b. How often do offenders return to court?
 - c. What does monitoring entail?
 - d. Why does the court engage in compliance monitoring – what do you think it accomplishes? (*probe for further explanation if subjects invoke catchwords.*)
 - e. Are monitoring appearances require of offenders mandated to programs? For other offenders as a condition on other dispositions?

- f. What are the court's policies and practices regarding the frequency and nature of court monitoring appearances? E.g., does the frequency of monitoring vary depending on past compliance or other factors? Is it different for different defendants?
- Is there a separate compliance calendar? If yes, how often/when does it meet? Who presides over it?
- Who attends compliance monitoring appearances? An ADA? Defense attorney? Who else?
- Does your office obtain compliance reports from the programs?

Orders of Protection/Restraining Orders (use appropriate language)

- Who, if anyone, checks for existing orders of protection (civil or criminal)? At what point is this check for existing orders of protection conducted? What happens when the court discovers existing orders?
- What are the practices for issuing, renewing, modifying and dropping criminal restraining orders?
- How often do such orders include children?
- Are mutual orders of protection in criminal court ever issued? If so, how often?
- What is the proportion of exclusionary or stay away orders vs. limited orders of protection?
- Under what circumstances would a non-exclusionary order be appropriate, if ever?
- What is the typical term of an OP issued by the DV Court – how does the length vary by case or defendant characteristics?

Victim Safety

- Is it a goal of the court to link victims to services? If yes, how? And how effective is the court? What are some of the obstacles and limitations?
- Court development of policies: *(ask only if not already covered in Planning and Evolution)*
- a. Did the court seek the advice of victim agencies in developing its policies and practices – what kind of input did the victim agencies provide?
- Are there court practices designed to protect victims in the courthouse, such as escorts by court officials?
- Do victims come to court? Why do they usually come to court?
- If they don't come to court, how are they notified of or receive copies of their OP/RO?

Training

- What training did you need when the DV court opened, if any?
- Did the founding of the court involve judicial training and/or training for court staff? If so, how intensive has training been over the court's evolution? (Probe: on what topics, by whom, who funded, was it useful?)
- Is there ongoing training for the court staff in domestic violence? How frequent?

Problems and Successes

- What areas are working well in the DV court?
- What areas could use improvement?
- Discuss problems and successes among stakeholders/political factions.
- Discuss problems and successes with getting/maintaining funding.

- Discuss problems and successes with the actual running of a DV Court.
- Is the court part of an evaluation? Probe: as part of funding, or internally, or externally, by the state court system?
- What are some important lessons that you have learned that you would pass on to a new court?

Documentation

- Can we have a copy of your policy and procedure manual or any other policy documents?
- Does your court measure monitoring appearances, recidivism, program completion or other outcome measures? If yes, can we have a copy of that information?

Following questions asked only of the victim advocate

- Is there a safe space for victims to wait in the courthouse? Overall, how easy is it for victims to avoid defendants in the court building if they want to?
- Can you describe a “typical day” for you in the DV court?
 - a. How do you first make contact with victims? Do police contact you? Are you contacted from the case intake/complaint room? Or do you not meet them until the case is called? Where do you first meet victims?
 - b. Does the court or DA’s Office have a formal process for referring victims to you?
 - c. What is your typical caseload of clients with cases in the DV court? About how many of the cases referred to the DV court make use of advocacy services in an average month?
- Victim needs and services:
 - a. What kinds of needs do you most commonly address with victims?
 - b. Do victims present needs that require different kinds of services that your agency cannot provide? About how many of the victims that you work with in the DV court are linked to some other community or social services?
 - c. Are there important unmet needs – service needs that victims have for which few resources are available? What could be done?

Following questions asked only of the prosecutor

- DA’s Office:
 - a. What is the jurisdiction of your office (city, county, other)?
 - b. Does this office handle all types of criminal cases or only certain types?
 - c. Is there a specialized DV Bureau? If yes;
 - i. What is the structure of the DV Bureau: e.g., bureau chief, supervisors, line ADA’s or other?
 - ii. When did it open? (Before or after the DV court opened?)
 - iii. What types of cases does it handle (any others besides domestic violence – e.g., sexual assault)?
 - iv. What is the approximate number of ADA’s in the DV Bureau?
 - v. Could you describe any other staff assigned to the DV bureau and their roles (investigators, victim advocates, social workers, etc.)?
 - vi. When does the DV Bureau pick up a case – at intake (pre-arraignment), post-arraignment, when transferred to DV Court?
 - vii. Does your DV Bureau have regular team/staff meetings? What do you discuss in them?

- Are there dedicated DV DA's? If so, how many?
- What is the approximate DV caseload (total number of pending cases) at any time?
- Are staffing needs met or unmet in regard to prosecuting DV cases (include ADA's, support staff)?

Prosecution Strategies

- What factors affect your decision of whether to prosecute a case?
- Do you decline to prosecute some cases at intake or immediately post-arraignment when you don't have enough evidence to go forward or the victim is uncooperative? If yes:
 - a. How much does victim preference affect your decision?
 - b. Must an ADA meet the victim or can victim preferences be conveyed in a phone conversation?
 - c. Must the victim sign a complaint for you to prosecute a case?
 - d. Do other factors besides victim preference affect the decision to prosecute? (e.g., other evidence, offender criminal history, severity of the charges, injury, etc.)
 - e. Are prosecution decisions at all constrained by resources? (e.g., are you unable to prosecute all DV cases due to insufficient staff?)
- Does your office attempt evidence-based prosecution, when the victim is unavailable or uncooperative? If yes, rarely or frequently, how do you decide?
- Does your office engage in vertical prosecution, i.e., does the same ADA handle a case from filing to disposition? If not, at what point(s) in the process are cases handed-off from one ADA to another (after complaint room, after arraignment, after first DV court experience, if it is prosecuted as a felony, etc.)?

Victim Involvement and Victim Safety

- Describe your contact with the victim both while the decision to prosecute is pending and throughout the duration of a case:
- Who contacts victims at each stage of the process (ADA, investigator, victim advocate working in the DA's office, or other staff person)? If victim advocate, is this person an employee of the DA's Office or of an independent victim assistance agency?
- Discuss the services that your office provides to victims.
- How successful do you think the DA's Office is in connecting victims with services?
- How does your office deal with reluctant victims? Do you attempt to convince them to prosecute the case? How strenuously?
- Is there a private non-profit victim advocacy provider that works with the court? If so, do you have a relationship with this provider? Explain.
- Does your office have a victim/witness advocates? If yes,
 - a. How many?
 - b. What are their responsibilities?
 - c. Do they work in intake or complaint room? If so, are they available the same hours as cases come in?
- Do victims come to court? Why do they usually come to court? If they do, how easy is it for victims to avoid defendants in the court building if they want to?

Case Assessment

- Do you have particular procedures for identifying high-risk or low-risk offenders? If yes:
 - a. Do you use any formal tools to assess defendants for risk of future violence?
 - b. Do you assess psychosocial characteristics, mental health or substance abuse issues, service needs, or other issues?
- At what point do you secure criminal history of the defendant? (*Probe: In time to make the decision about declining to prosecute?*)

Following questions asked only of probation

- Probation Department:
 - a. What is the jurisdiction of your office (city, county, other)?
 - b. Is there a specialized DV Unit? If yes:
 - I. What is the structure of the DV Unit: e.g., bureau chief, supervisors, line probation officers, or other?
 - II. When did it open? (Before or after the DV court opened?)
 - III. What types of cases does it handle (any others besides domestic violence)?
 - IV. What is the approximate number of probation officers assigned?
 - V. Does your DV Unit have regular team/staff meetings? What do you discuss in them re: DV court?
 - c. If there is no DV unit, how are DV cases assigned to probation officers? Are there any specialized procedures for staff who carry DV cases or are involved in the DV court?

Operations and Resources

- What is the approximate DV caseload (total number of pending cases) at any time?
- When does Probation pick up a DV case? – After a sentence to probation or ever during a pre-disposition stage? (*probe for details*)
- Are staffing needs met or unmet with DV cases?
- In general, are technology needs met or unmet? Do you have any consistent management information system for tracking case-level data such as case outcomes, litigant characteristics, program mandates, appearance dates, etc.?
- About what percentage of probationers involved in the DV Court complete the terms of probation?
- How often do probation officers attend DV court sessions, if ever? Under what circumstances?

Probation Supervision

- Is probation involved in monitoring compliance with court orders, including stay away orders, or program attendance?
- Describe policies related to probation supervision: e.g., frequency and type of contact with offender; office or home visits. What is discussed/what happens during contacts?
- Does probation communicate with any programs that offenders are ordered to attend? If so, how often? What information is obtained? Under what circumstances is information relayed to the court?
- How does probation respond to offender noncompliance with court orders, including failure to attend a mandated program, violating a restraining order/protection order? Are there other common forms of violation of court orders?

- What actions might trigger a probation violation? When a violation is filed, what is the process (*Probe for: how long from filing a violation to court date; what are the typical outcomes at the court hearing?*)
- In what ways, if any, is monitoring DV cases different from monitoring other cases?

Victim Safety

- Does probation have a formal relationship with a victim assistance agency or the victim/witness advocate(s) in the DA's office?
- Does probation work with domestic violence victims in any way? If yes, how?

Following questions asked only of the batterer program

- Program information
 - a. Approximately how participants are mandated to the program each year?
 - b. What are the most common referral sources? *Probe: the DV court visited, other criminal courts, family court, probation, parole, "self-referred"/non-mandated, etc.*
 - c. In terms of the relationship between offender and victim, what kinds of cases do you accept? *Probe: Women offenders? Men in same-sex relationships? Do you accept other than intimate partners – e.g., child abusers? Caregivers in elder abuse cases?*
- What are the goals of your batterer program – why should offenders be mandated to it?
 - a. Accountability – DEFINE (in what way does the program hold them accountable?)
 - b. Rehabilitation – to stop domestic violence, reduce reoffending
 - c. Better penalty than nothing
 - d. Monitoring for the court
- Do you think your program is successful in achieving its goals?
 - a. If yes or no: How do you know? Have you attempted to measure whether your program has attained any of its goals?
 - b. If yes, what did you find?
- Are there other batterer programs serving the DV court? Do you know about any differences in their program and approach, or are they similar?

Mandates from the DV Court

- For defendants mandated to your program by the DV court, what is the most common legal status?
 - Pre-disposition:
 - Condition of bail
 - Condition of dismissal of the charges
 - Condition of a sentence to probation
 - Conditional discharge
 - Other: _____
- Does the court make the referral directly, or does probation make the referral?
- Does probation have a role in supervising DV court referrals, or only if the mandate is a condition of probation?
- How do you get the information that someone has been mandated to the batterer program?
 - a. Is there an individual (court clerk or probation officer or someone else) who contacts you about referrals?
 - b. Does this work differently if the mandate comes from the court vs. from probation?

- Describe your relationship with the DV court: Do you have staff that goes to the DV court (e.g., to conduct assessments or for other reasons)? What is their role?

Program Operations and Regulations

- Please tell me how your program works (the rules and regulations).
 - a. Number of weeks and sessions, duration of sessions:
 - b. Approach (educational, skills, psychological/behavioral):
 - c. Termination policies (absences, lateness, DV re-arrest, other re-arrest, other behavior):
- What are defendants told about their responsibilities at the program? By whom? Are they given any written materials? (If yes, obtain a copy.)
- Do you have a manual that explain policies and operations? If yes, can we have a copy?
- Approximately what percentage of participants completes your program?
- Does your program offer drug treatment, mental health services, etc.? If so, does the program or the court decide what modality or additional programs/services a particular offender should get?
- Do you have any specialized services for:
 - a. Offenders from same sex relationships mandated by the DV court?
 - b. Women mandated by the DV court?
 - c. Offenders who do not speak English?
 - d. Social minorities?

Assessment of Offenders

- Does the batterer program conduct an assessment? If so, for:
 - Risk of future violence
 - Psychosocial characteristics
 - Mental health issues
 - Substance abuse issues
 - Service needs
 - Other issues: _____

Compliance Monitoring: Reporting to the DV Court or Probation

- How does your program report to the DV court on whether someone is attending the batterer program and complying with rules of the program?
 - a. Do you submit reports? If yes, to whom?
 - b. Do you submit reports routinely or only when the report requests, or at certain junctures (e.g., completion of program, problems)?
- When the program terminates or dismisses someone mandated by the DV court:
 - a. How is the court (or probation) informed?
 - b. Does the program find out the court's response?
 - c. If so, what are some of the court's responses?
 - d. Do the same responses tend to be imposed in similar situations, or does it seem more case-by-case?
 - e. Would you like the court to respond any differently than it does? How?
- Does the DV court require offenders mandated to your program to report regularly to court for compliance hearings?

- a. If so, does someone from your program attend compliance hearings if offenders have been mandated to your program?
- b. Does the program report positive signs of progress to the court?

Victims and Victim Advocacy Agencies

- Have victim assistance agencies given the batterer program any input about the program in terms of interactions with the court, and have you used that input? How?
- Do you have any contact with victims? If so, do you use information from victims in reporting to the court or your interaction with the offender?

Appendix B Court Observation Form

DOMESTIC VIOLENCE COURT SESSION OBSERVATION FORM

1. Name of Court: _____ 2. Date: _____

3. Judge: _____

4. Observer: _____

5. Part Observed: Trial Compliance monitoring part
 All-purpose (hears domestic violence cases at all stages of processing)
 Other: _____

5a. If compliance monitoring part, did it hear regular reviews or only cases known to be out of compliance? Reviews Noncompliant cases only

6. Session Length: Start Time (1st case called): _____ End Time: _____ Total Hrs/Mins. _____

7. Total Number of Court Appearances (count from court appearance protocols): _____
Pre-disposition: _____ Disposition/Sentencing: _____ Trial: _____
Compliance: _____ Unclear: _____ Other _____ (describe other):

Court Set Up

8. Court safety and security

8a. Is there a separate waiting area for victims and offenders outside the court? Yes No

8b. Do court officers accompany victims? Yes No

8c. Do the size and layout of the court allow victims and offenders to sit separately? Yes No

8d. Any other comments about the courtroom itself, waiting space, or safety arrangements?

9. Types of Cases Seen (e.g., felony, misdemeanor, types of charges): _____

10. Staff Present in Courtroom

- a. Resource Coordinator Yes No Unclear
- b. Dedicated ADA Yes No Unclear
- c. Single (dedicated) public defender Yes No Unclear
- d. Multiple public defenders Yes No Unclear
- e. Private defense attorneys Yes No Unclear
- f. Victim Advocate Yes No Unclear
- g. Probation Officer Yes No Unclear
- h. Batterer program representative Yes No Unclear
- i. Other _____ Yes No Unclear
- j. Other _____ Yes No Unclear

Interactions

11. If victims were in the courtroom:

a. Were they accompanied? Check all that apply.

- With the defendant With an advocate With family/friends Alone Unclear

b. Did advocates talk to victims? Always Sometimes Never Unclear

c. Did advocates sit with victims? Always Sometimes Never Unclear

12. Was testimony given in any cases? Yes No → skip to 17

13. If testimony, who testified? (check all that apply)?

- Defendant Victim Other: _____

14. If victim(s) testified: Did advocate stand up with victims when they were speaking?

- Always Sometimes Never Unclear Not applicable – complainants did not testify

)?

17. Overall, how would you describe the tone of the judge when talking to victims? (e.g., stern, intimidating, distracted, caring, respectful, impatient – or does it depend on whether victim is in court to support defendant)?

NA – victims not in court

18. Overall, how would you describe the pace of each case hearing? _____

-
19. a. Were “on the record” comments audible? Entirely Mostly Barely (e.g., front row or loud remarks only) Not at all
- b. Did the judge have a microphone? Yes No

Appearance Outcomes

20. What were the most common reasons for adjournment?
- DA not ready Defense not ready
- Defense attorney not present
- Waiting for paperwork Motion pending Trial pending
- To consider plea offer Other _____

Convictions NA – No convictions in this session – Skip to 24

21. How many sentences did you observe in total? ____

22. What were the sentences you observed?

- Jail time: # jail sentences ____
- Probation: # probation sentences ____
- Fine: # sentences with fine ____
- Program mandate (batterer): # batterer program sentences ____
- Program mandate (other): # other program sentences ____
- Specify program types: _____
- Restraining order # sentences with restraining order ____
- Other _____

Notes/additional details about sentencing: _____

23. Describe the allocution – level of detail in explanations, questions, and answers initiated by the judge:

Compliance Hearings NA – No compliance hearings in this session – Skip to 29

24. How does the judge get updated compliance information? (Check all that apply)

- Program representatives
- Computerized information management system
- Probation
- Case managers
- Offender
- Unknown
- Other _____

25. What were the most common outcomes for compliance? NA – only heard noncompliance

- Rewards (describe _____)
- Longer time between appearances
- Praise/positive feedback (describe _____)
- Other _____
- None (just routine, no particular response)
-

26. What were the common outcomes for noncompliance? NA – only heard compliance

- Sanctions: # cases with sanctions ____
- Shorter time between appearances: # times observed ____
- Verbal admonishment: # times observed ____
- Other _____

27. Other comments on handling noncompliance: _____

27. Notes

Appendix C Court Appearance Form

DOMESTIC VIOLENCE COURT APPEARANCE OBSERVATION FORM # _____

1. Name of Court: _____ 2. Date: ___/___/___
3. Observer Initials: _____
4. Appearance Start Time: _____ End Time: _____
5. Case stage: Arraignment Pre-disposition Disposition/Sentencing
Trial Compliance monitoring Unclear Other: _____
6. Is defendant in custody? Yes No
7. Defendant sex: Male Female
8. Was a protection order in effect at the end of the appearance? Yes No Unclear

Answer for all except compliance cases:

9. Was there a plea offer?
 Yes
 No
10. Appearance disposition (check all that apply):
 Adjourned until: _____ Reason/Who requested: _____
 Dismissed
 Pretrial diversion: _____
 Pled guilty
 Convicted at trial
 No contest
 Other: _____

Answer only if convicted (on plea or other):

11. Charge:
11a. Charge severity: Violation Misdemeanor Felony Unclear
11b. Conviction charge: _____

12. Sentence (complete all that apply):
 Fine (amount: _____) Restitution (amount: _____)
Conditional discharge
 Community service Probation (term length: _____)
Jail/prison (term length: _____)
 Order of protection (describe _____)

Answer if defendant was given conditional discharge, probation, or other special conditions:

13. Conditions (complete all that apply):
 Program mandate (Describe: _____)

- Court Monitoring (How often: _____)
- Other: _____

14. Did the judge clearly indicate the consequences of noncompliance?

- Yes/indicated specific consequences Yes/indicated possible consequences No

Answer for compliance monitoring cases only:

15. Type of program (check all that apply):

- Batterer program Alcohol or substance abuse treatment
- Mental health treatment Anger management
- None Other _____

16. Compliance Reports

Negative Report	Infraction (check all that apply)	Sanction (check all that apply)
	<input type="checkbox"/> Terminated <input type="checkbox"/> Program absence(s) <input type="checkbox"/> Program lateness(es) <input type="checkbox"/> Missed program intake <input type="checkbox"/> Rule-breaking <input type="checkbox"/> Re-arrest for DV <input type="checkbox"/> Re-arrest (non-DV) <input type="checkbox"/> Poor attitude at program <input type="checkbox"/> Re-arrest for DV <input type="checkbox"/> Returned on warrant <input type="checkbox"/> Nonpayment (program) <input type="checkbox"/> Nonpayment (Court Fine) <input type="checkbox"/> Violated OP/RO <input type="checkbox"/> Failed drug test (ct) <input type="checkbox"/> Failed drug test (pg) <input type="checkbox"/> Other _____ _____ _____	<input type="checkbox"/> None <input type="checkbox"/> Investigation/Assessment <input type="checkbox"/> Restart program <input type="checkbox"/> New program <input type="checkbox"/> More frequent court appearance <input type="checkbox"/> Convene VOP hearing <input type="checkbox"/> Verbal admonishment <input type="checkbox"/> Accepted documented excuse <input type="checkbox"/> Additional time in program <input type="checkbox"/> Amend probation conditions <input type="checkbox"/> Jail Sentence <input type="checkbox"/> Other _____ _____ _____
Positive Report	Achievement (check all that apply)	Incentive (check all that apply)

Did the judge indicate consequences of further noncompliance? Yes No

Did the judge threaten jail in response to further noncompliance? Yes No

	<input type="checkbox"/> Good Attendance <input type="checkbox"/> Program Completion <input type="checkbox"/> Work or educational achievement <input type="checkbox"/> Other <hr/> <hr/>	<input type="checkbox"/> None <input type="checkbox"/> Less frequent court appearances <input type="checkbox"/> Positive verbal feedback <input type="checkbox"/> Favorable change in disposition Describe _____ <input type="checkbox"/> Other _____
--	--	--

Notes:

Appendix D Court Survey

NATIONAL SURVEY OF DOMESTIC VIOLENCE COURTS

BACKGROUND INFORMATION

Please complete the following:

Name of Court: _____

Your Name: _____

Position: _____

Address: _____

Phone: _____

E-mail: _____

Please read: For the purpose of this survey, a criminal domestic violence court handles domestic violence cases on a separate calendar or assigns domestic violence cases to one or more dedicated judges or judicial officers.

1. Does the court handle criminal domestic violence cases on a separate calendar?
 Yes
 No

2. Does the court assign criminal domestic violence cases to one or more dedicated judges or judicial officers?
 Yes → How many dedicated judges or judicial officers? _____ (#)
 No

Please read: If you answered “no” to BOTH questions 1 and 2, please stop here and return the survey in the enclosed envelope. Thank you for your participation.

I. GENERAL QUESTIONS

3. In what year was the domestic violence court established? _____ (year)

4. Approximately how many cases did the domestic violence court hear in 2007? _____ (#)

5. How many staff members from each of the following roles are assigned specifically to work in the domestic violence court?

- _____ # Judges or judicial officers
- _____ # Project coordinators/administrators
- _____ # Program compliance monitors, resource coordinators, or case managers
- _____ # Police officers or sheriffs
- _____ # Probation officers
- _____ # Public defenders
- _____ # Prosecutors
- _____ # Victim advocates
- _____ # Court clerks
- _____ # Bailiffs/security officers/marshals
- _____ # other dedicated staff. Please specify their roles: _____

6. About how long are judges or judicial officers typically assigned to the domestic violence court before rotating out?

- ____ Years or ____ Months
- No typical timeframe for rotation
- Unsure
- Other: Please explain:

7. Have the judges or judicial officers who are currently assigned to the domestic violence court received domestic violence training?

- Yes
- Some but not all
- None
- Unsure

8. In approximately what percent of cases do domestic violence defendants require interpreter services in court?

- None
- 1% to 24%
- 25% to 49%
- 50% to 74%
- 75% to 100%

II. DOMESTIC VIOLENCE COURT GOALS AND OBJECTIVES

9. Please rank the importance of the following potential goals of handling domestic violence cases in a specialized court? *Please check one column for each item.*

Goals and Objectives	Not a goal of the DV Court	Somewhat important	Very important	Extremely important
a. Hold offenders accountable for illegal behavior				
b. Rehabilitate offenders				
c. Deter offender recidivism				
d. Penalize offenders who are noncompliant with court orders				
e. Increase efficiency of DV case processing				
f. Increase consistency of DV case dispositions and sentences				
g. Increase community visibility of DV as a social problem				
h. Achieve coordinated response to DV				
i. Increase victim safety				
j. Facilitate victim access to services				
k. Foster expertise in judges or judicial officers who handle DV cases				
l. Improve victim perception of the fairness of the court process				
m. Apply statewide statutory requirements correctly and consistently				
n. Other goals: Please specify				

10. In your opinion, how is the domestic violence court most different from a non-specialized court in how it handles domestic violence cases?

III. CASE ELIGIBILITY AND SCREENING

11. What kinds of cases does the domestic violence court hear? (Please check all that apply.)

- Felonies
- Misdemeanors
- Ordinance violations
- Civil protection/restraining orders
- Other: Please specify:

12. Which forms of domestic violence are eligible for the court? (Please check all that apply.)

- Intimate partner violence
- Elder abuse
- Child abuse
- Violence between other relatives
- Violence between roommates
- Other types: Please specify: _____

13. Which specific intimate partner relationships are eligible? (Please check all that apply.)

Victim and defendant:

- are married
- are legally separated or divorced
- have children in common (regardless of current relationship status)
- live together but are not married
- do not live together and do not have children in common
- were formerly intimate partners
- are the same sex

14. At the first domestic violence court appearance, does the court routinely impose a temporary criminal protection/restraining order?

- Yes
- No
- No – but such an order or condition has usually been imposed already by another judge
- No – but the DV court judge routinely issues a civil protection/restraining order

IV. DISPOSITIONS AND SENTENCES

15. Does the court primarily use a diversion model?

- Yes
- No

16. For cases that end in conviction, are specific domestic violence sentences mandated by state law?

- Yes → Please briefly summarize or provide statutory references:

- No

17. For cases that end in conviction, please indicate how frequently the following sentences or sentencing conditions are imposed:

	Never	Rarely	Sometimes	Often	Always
a. Batterer program					
b. Other type of program					
c. Probation					
d. Incarceration for less than one year					
e. Incarceration for one year or longer					
f. Protection/restraining order					
g. Restitution					
h. Fine					
i. Community service					
j. Conditional discharge					
k. Other: Please specify:					

VI. PROGRAMS FOR DEFENDANTS

18. How often does the court mandate defendants to a batterer program or other program *before* they plead guilty or are convicted?

- Never
- Rarely
- Sometimes
- Often
- Always

19. Approximately what percent of *convicted* defendants did the court sentence to a batterer program in 2007? (If you are unsure, please provide your best estimate.)

- None → *Please skip to question 23.*
- All defendants convicted of domestic violence are mandated by state law to attend a batterer program.
- 1% to 24%
- 25% to 49%
- 50% to 74%
- 75% to 100%

20. How many batterer programs are available to court-mandated defendants?

_____ (# programs)

- Not sure
- None

21. What is the typical number of weeks that defendants must attend a batterer program?

_____ (# of weeks)

22. Please rate the importance of the following reasons for the court to mandate defendants to batterer programs:

	Not Important	Somewhat Important	Very Important	Extremely Important
a. Treatment or rehabilitation				
b. Accountability				
c. Monitoring				
d. Proportionality (appropriate penalty)				
e. Alternative to incarceration				
f. Mandated by state statute				
g. Others: Please specify:				

23. What other types of programs are defendants mandated to attend by the domestic violence court? (Please check all that apply.)

- Alcohol or substance abuse treatment
- Anger management for intimate partner cases
- Anger management for other domestic violence cases (parent-child, siblings, etc.)
- Couples counseling
- Mediation
- Mental health treatment/counseling
- Parenting class
- Supervised visitation
- None
- Other. Please specify: _____

24. What is the typical legal outcome for defendants who have completed all mandated programs? (Please only select the one most typical outcome.)

- Case closed and probation term shortened
- Case closed and conviction charges reduced (e.g., misdemeanor to violation)
- Case dismissed
- No impact on the case disposition or sentence
- Other. Please specify: _____

VII. ASSESSMENT OF DOMESTIC VIOLENCE OFFENDERS

25. How often do defendants receive an assessment?

- Never → *Please skip to question 29.*
- Rarely → *Please skip to question 29.*
- Sometimes
- Often
- Always

26. What does the assessment evaluate? (Please check all that apply.)

- Risk of repeat violence
- Background characteristics
- Mental health issues
- Drug or alcohol abuse issues
- Service needs
- Victimization of the defendant (e.g., background of child abuse)

- Risk of lethality
- Other issues: Please specify: _____

27. Are standardized assessment tools used?

- Yes
- No
- Unsure

28. What are the purposes of defendant assessment? (Please check all that apply.)

- Determine type or length of sentence
- Determine type of treatment or program(s) ordered
- Determine bail recommendation
- Determine intensity of probation or judicial supervision
- Other: Please specify: _____
- Unsure

VII. SUPERVISION AND COMPLIANCE

A. PROBATION SUPERVISION

29. How often does the court mandate domestic violence offenders to probation supervision?

- Never → *Please skip to question 34.*
- Rarely → *Please skip to question 34.*
- Sometimes
- Often
- Always

30. For defendants supervised by probation, about how often do they meet with their probation officer (including both office and home visits)?

- _____ times per month **OR** _____ times per year
- Unsure

31. How often does probation require defendants to attend substance abuse or mental health treatment as a probation requirement, even if it was not expressly ordered by the court?

- Never
- Rarely
- Sometimes
- Often

Always

32. Do probation officers routinely contact victims for any of the following reasons? (Check all that apply.)

- Probation officers do not contact victims
- Verify with victims that offender is compliant with restraining orders
- Offer services to victims
- Alert the victim that the offender is noncompliant (i.e., abusing drugs, rearrested, etc.)
- Elicit information from victim
- Other: Please specify: _____
- Unsure

33. When does the court typically receive a status report from probation? (Check all that apply.)

- Never
- Rarely
- Regularly (please specify)
↳ _____ times per month **OR** _____ times per year
- Upon filing of a probation violation
- Upon completion of probation requirements

B. COURT SUPERVISION

34. How often does the court require defendants to see a judge or judicial officer for regular compliance monitoring?

- Never → *Please skip to question 41.*
- Rarely → *Please skip to question 41.*
- Sometimes
- Often
- Always

35. Over the duration of the judicial monitoring period, how frequently do defendants typically see the judge or judicial officer?

_____ times per month **OR** _____ times per year

36. Does the domestic violence court have a separate compliance calendar? (Are compliance cases heard at a different time than cases dealing with dispositional issues?)

- Yes
- No

37. Which of the following does the judge or judicial officer typically do in compliance hearings? (Please check all that apply.)

- Reviews any re-arrests or alleged violations of court orders
- Restates program attendance responsibilities
- Restates responsibilities related to contact with the victim
- Restates what consequences will follow future noncompliance with court orders
- Praises compliant behavior
- Verbally admonishes defendant for noncompliant behavior
- Imposes concrete sanctions for noncompliant behavior
- Reviews report submitted by program or probation
- Converses directly with defendant in court
- Other - Please specify: _____

38. How often does the court impose sanctions in response to noncompliance with a program mandate?

- Never Rarely Sometimes Often
 Always

39. When a defendant is reported to be noncompliant with a program, how often does the court do each of the following?

	Never	Rarely	Sometimes	Often	Always	Unsure
a. Order defendant to return to court immediately						
b. Verbally admonish defendant						
c. Order defendant back to program with credit for sessions attended						
d. Order defendant back to program with extra sessions added						
e. Order defendant to restart program						
f. Order defendant to start a new program						
g. Order defendant to make more frequent court appearances for compliance monitoring						
h. Revoke or amend probation conditions						
i. Resentence defendant to jail						

j. Order drug test						
k. None of the above						
l. Other sanctions:						

40. Does the court have a protocol or guidelines defining which sanctions may be imposed when a defendant is noncompliant with a program?

- Yes
- No
- Unsure

VIII. VICTIM SERVICES

41. Please indicate approximately how often victims come to court for each of the following reasons:

	Never	Rarely	Sometimes	Often	Always	Unsure
a. To observe the proceeding						
b. To testify						
c. To request a protection/restraining order						
d. To request termination or modification of a protection/restraining order						
e. To meet with a victim advocate						
f. To obtain services						
g. Other:						

42. What provisions are made for victim safety in and around the courthouse? (Please check all that apply.)

- Separate waiting area in the courthouse
- Separate seating area in the court
- Escort before court proceedings *outside* the courthouse
- Escort before court proceedings *inside* the courthouse
- Escort after court proceedings *inside* the courthouse
- Escort after court proceedings *outside* the courthouse
- Daycare/childcare center so children do not have to come to court
- None
- Other: Please specify: _____

43. How do victims receive copies of their criminal protection/restraining orders?

- Court clerk mails orders to victims
- Prosecutor's office mails copies to victims
- Victim advocates mail copies to victims
- Victims receive copies when they come to court
- N/A (criminal court does not issue protection/restraining orders)
- Unsure
- Other: Please specify: _____

IV. CONCLUSION

44. Please briefly state the top three challenges faced by the domestic violence court.

1. _____

2. _____

3. _____

45. What lessons have you learned that might benefit new domestic violence courts?

46. Please briefly describe any innovative features of your domestic violence court.

47. We would like to distribute a survey to the prosecutor's office affiliated with your court because we believe prosecutorial philosophy and practice is a critical context for understanding the development of individual DV courts. Can you please provide us with the name and contact information for the prosecutor's office that most often works in your DV court?

Agency Name: _____

Contact Name _____

Agency Address: _____

Agency Phone: _____

Thank you very much for your participation and assistance!

If you have any further questions, please call Melissa Labriola, Center for Court Innovation, at 212-373-1693 or e-mail her at mlabriol@courts.state.ny.us.

Appendix E Prosecutor Survey

NATIONAL SURVEY OF DOMESTIC VIOLENCE COURTS

BACKGROUND INFORMATION

Please complete the following:

Name of Prosecutor's Office: _____

Your Name: _____

Position: _____

Address: _____

Phone: _____

E-mail: _____

I. ORGANIZATION OF THE PROSECUTOR'S OFFICE

1. Does the prosecutor's office have a specialized domestic violence unit or one or more specialized prosecutors that are assigned to handle domestic violence cases?

- Yes – *Please continue.*
 No – *Please skip to question 4.*

2. Which forms of domestic violence are handled by the specialized prosecutors? (*Please check all that apply.*)

- Intimate partner violence
 Elder abuse
 Child abuse
 Sex offenses
 Violence between other relatives
 Violence between roommates
 Other types: Please specify: _____

3. How many specialized prosecutors work on domestic violence cases? _____ (#)

II. GENERAL QUESTIONS ABOUT THE DOMESTIC VIOLENCE COURT

Please read: For the purpose of this survey, a criminal domestic violence court handles domestic violence cases on a separate calendar or assigns domestic violence cases to one or more dedicated judges or judicial officers.

4. Based on the preceding definition, does your office prosecute cases in a specialized domestic violence court?

- Yes
- No– *If your office does not prosecute domestic violence cases in a specialized domestic violence court; please return the survey in the enclosed self-addressed envelope. Thank you for your participation.*

5. Please list all criminal domestic violence courts within the prosecutor’s jurisdiction. If there is more than one, please select and list first the court with which you are most familiar.

6. If you listed more than one domestic violence court in question 5, how do they differ in jurisdiction? *(Please check all that apply.)*

- Charges (e.g., felony vs. misdemeanor courts)
- Geography (e.g., different cities or communities within the prosecutor’s jurisdiction)
- Other; please specify: _____

III. DOMESTIC VIOLENCE COURT GOALS AND OBJECTIVES

7. What are the goals of your office in prosecuting cases in the domestic violence court? *Please check only one column for each item.*

Goals and Objectives	Not relevant or not a goal	Somewhat important	Very important	Extremely important
a. Hold offenders accountable for criminal behavior				
b. Rehabilitate offenders				
c. Reduce recidivism				

d. Penalize offenders who are noncompliant with court orders				
e. Increase efficiency of DV case processing				
f. Increase consistency of DV case dispositions and sentences				
g. Increase community visibility of DV as a social problem				
h. Achieve a coordinated response to DV				
i. Increase victim safety				
j. Facilitate victim access to services				
k. Foster expertise in prosecutors who handle DV cases				
l. Improve victim perception of the fairness of the court process				
m. Apply statewide statutory requirements correctly and consistently				
n. Other goal:				

8. In your experience, how does prosecuting domestic violence cases in a domestic violence court differ from a non-specialized court?

Please read: For the remaining questions, if you have multiple courts within your office's jurisdiction, please answer with respect to the one with which you are most familiar (listed first under question 5).

IV. CASE SCREENING

9. About what percentage of domestic violence arrests does the prosecutor's office file or pursue?

- 1% to 24%
- 25% to 49%
- 50% to 74%

75% to 100%

10. If the victim is unwilling or unable to support prosecution, how often does the prosecutor's office still file the case?

- Never
- Rarely
- Sometimes
- Often
- Always

11. Has the decision in *Crawford v. Washington* 541 U.S. 36 (2004) and related cases affected the prosecution strategy when a victim is unavailable or unwilling to participate?

- Yes
- No
- Unsure

12. Has the prosecutor's office adopted a vertical prosecution strategy (the same prosecutor handles a case from filing to disposition)?

- Yes – from point of filing
- Yes – once the case reaches the domestic violence court
- No

13. Have any of the following changed in part as a result of the establishment of the specialized domestic violence court? (*Please check all that apply.*)

- a) The percentage of domestic violence cases filed with the court
 - Increased
 - Decreased
 - No change
- b) The percentage of domestic violence cases resulting in a conviction
 - Increased
 - Decreased
 - No change
- c) The amount of resources available to the prosecutor's office to collect evidence
 - Increased
 - Decreased
 - No change
- d) The amount of resources available to the prosecutor's office to conduct outreach to victims
 - Increased

- o Decreased
- o No change
- e) The percentage of victims receiving temporary protective or restraining orders prior to final disposition
 - o Increased
 - o Decreased
 - o No change
- f) The percentage of victims receiving final protective or restraining orders
 - o Increased
 - o Decreased
 - o No change
- g) The use of vertical prosecution
 - o Increased
 - o Decreased
 - o No change
- h) The expertise of judges who handle domestic violence cases
 - o Increased
 - o Decreased
 - o No change
- i) The expertise of prosecutors who handle domestic violence cases
 - o Increased
 - o Decreased
 - o No change
- j) Other; please describe: _____

14. How often does the prosecutor's office pursue domestic violence arrest cases under lesser, non-domestic violence charges?

- Not applicable: Our jurisdiction does not have specific charges that apply to domestic violence offenses only
- Never
- Rarely
- Sometimes
- Often
- Always

V. DISPOSITIONS AND SENTENCING

15. On average, about how many months after the arrest are domestic violence court cases disposed (convicted or dismissed)? *(Please provide your best estimate.)* _____ (# months)

16. How often does the domestic violence court use pretrial diversion?

- Never
- Rarely
- Sometimes
- Often
- Always

17. For domestic violence court cases that end in conviction, are specific sentences mandated by state law?

Yes → Please provide a brief summary or statutory references:

No

18. For cases that end in conviction, please indicate how frequently the domestic violence court imposes the following sentences or sentencing conditions:

	Never	Rarely	Sometimes	Often	Always
l. Batterer program					
m. Other type of program					
n. Probation					
o. Incarceration for less than one year					
p. Incarceration for one year or longer					
q. Protection/restraining order					
r. Restitution					
s. Fine					
t. Community service					
u. Conditional discharge					
v. Other: Please specify:					

VI. PROGRAMS AND RESOURCES

19. How often does the court mandate defendants to batterer programs or other programs *before* they plead or are convicted?

- Never
- Rarely
- Sometimes
- Often
- Always

20. From the perspective of the prosecutor, please rate the importance of each of the following reasons for mandating defendants to batterer programs:

	1 Not Important at All	2 Somewhat Important	3 Very Important	4 Extremely Important
a. Treatment or rehabilitation				
b. Accountability				
c. Monitoring				
d. Proportionality (appropriate penalty)				
e. Alternative to incarceration				
f. Mandated by state statute				
g. Other; please describe:				

21. Which of the following are common legal outcomes for defendants who have completed all mandated programs? (*Please check all that apply.*)

- Case closed and probation term shortened
- Case closed and conviction charges reduced (e.g., misdemeanor to violation)
- Case dismissed
- No impact on the case disposition or sentence
- Other. Please specify:

VII. SUPERVISION AND COMPLIANCE

22. How often does the domestic violence court impose sanctions in response to noncompliance with court orders?

- Never
- Rarely

- Sometimes
- Often
- Always

23. How does the prosecutor respond when defendants on probation are noncompliant? *(Please check all that commonly apply.)*

- Not applicable – probation sentences are rare
- File violation based on the recommendation of Probation
- File violation based on the prosecutor’s own discretion
- Decline to file a violation despite the recommendation of Probation
- Influence general probation policies regarding when to file a violation
- Appear at probation violation hearing
- Other: Please specify:

24. In cases of noncompliance with a court order, is the prosecutor involved in shaping the domestic violence court’s response?

- Never
- Rarely
- Sometimes
- Often
- Always

25. When a defendant is reported to be noncompliant with a program, how often does the domestic violence court do each of the following?

	Never	Rarely	Sometimes	Often	Always	Unsure
a. Order defendant to return to court immediately						
b. Verbally admonish defendant						
c. Order defendant back to program						
d. Order defendant to make more frequent court appearances for compliance monitoring						
e. Revoke probation or amend conditions						

f. Resentence defendant to jail						
g. Other sanctions:						

VIII. VICTIM CONTACT & VICTIM ASSISTANCE

26. Approximately what percentage of victims meet with a victim advocate at some point during the case?

- 1% to 24%
- 25% to 49%
- 50% to 74%
- 75% to 100%
- Unsure

27. How many people housed in the prosecutor’s office are dedicated to assisting or coordinating services for victims?

- _____ # Victim or witness advocates employed by the prosecutor’s office
- _____ # Victim advocates employed by a nonprofit victim assistance agency – but housed in the prosecutor’s office

28. Which of the following best describes the role of the victim or witness advocates directly employed by the prosecutor’s office? (*Please check all that apply.*)

- Not applicable: victim or witness advocates are not directly employed by the prosecutor’s office
- Assist victims with securing a civil protective/restraining order
- Provide safety planning for victims
- Gather information from victims to facilitate prosecution
- Explain the criminal justice process to victims
- Accompany victims to court
- Assess victims’ willingness to participate in prosecution
- Assist victims with housing/shelter needs
- Assist victims in securing safe transit to/from the court
- Refer to other agencies for services
- Provide counseling
- Follow up with the victims as the case proceeds
- Follow up with victims if the case is dropped or dismissed
- Other; please specify:

29. Which of the following best describes the role of victim advocates from an independent victim assistance agency?

- Not applicable: there is not a nonprofit/independent victim assistance agency in our jurisdiction
 - Assist victims with securing a civil protective/restraining order
 - Provide safety planning for victims
 - Gather information from victims to facilitate prosecution
 - Explain the criminal justice process to victims
 - Accompany victims to court
 - Assess victims' willingness to participate in prosecution
 - Assist victims with housing/shelter needs
 - Assist victims in securing safe transit to/from the court
 - Refer to other agencies for services
 - Provide counseling
 - Follow up with the victim as the case proceeds
 - Follow up with victims if the case is dropped or dismissed
 - Other; please specify:
-

30. Does the prosecutor's office have sufficient resources to handle cases effectively when a language other than English is spoken by the victim?

- Yes
- No
- Unsure

31. Which of the following notifications or information does the prosecutor's office provide to the victim (if she or he can be reached)? *Please check one column for each item.*

Type of information	Information Usually Provided	Information <u>Not</u> Usually Provided
Defendant released from custody		
Defendant has court date		
Case disposition		
If convicted, type of sentence		
Order of protection issued		
Violation of bond/bail		

IX. CONCLUSION

32. What lessons have you learned that might benefit new domestic violence courts?

33. What are some advantages and disadvantages in having a domestic violence court?

Advantages:

Disadvantages:

Thank you very much for your participation and assistance!

If you have any questions, please call Melissa Labriola, Center for Court Innovation, at 212-373-1693 or e-mail her at mlabriol@courts.state.ny.us.

Appendix F Letter to Courts

February 11, 2008

To the Domestic Violence Court:

The Center for Court Innovation and the California Administrative Office of the Courts are conducting a national survey of domestic violence courts. The purpose of the survey is to illuminate the goals, policies, procedures, and achievements of domestic violence courts across the country as well as to identify common challenges. The project is funded by the National Institute of Justice. Findings will be widely disseminated to stimulate further exchange of ideas and solutions.

We would greatly appreciate it if you could complete the survey at your earliest convenience, or have it completed by someone affiliated with the court who is most familiar with the criminal domestic violence court. We anticipate that the questionnaire will take approximately 30 minutes to complete. It can be completed online or you can request a hard copy.

To complete the online survey:

1. Go to the following internet address: <http://vovici.com/wsb.dll/s/6e49g30c1f>
2. Enter the unique password that has been assigned exclusively to your court: ****

Confidentiality: By completing the survey, you are agreeing to allow us to use the information that you provide in our study. We will not identify which courts gave which responses without explicit permission from authorized personnel. We will also keep strictly confidential any personally identifying information such as your name and personal contact information. However, at the end of the study, we plan to produce a compendium listing the name and address of all domestic violence courts nationwide.

Security: Surveys completed online have been secured to ensure that the data you provide can be viewed *only* by project research staff, not by anyone else on the internet. In addition, no other court has the same password, guaranteeing that no other survey respondent can view your answers.

If you would like to learn more about the study or would like a hard copy of the survey, please contact Melissa Labriola at the Center for Court Innovation: mlabriol@courts.state.ny.us or (212) 373-1693.

Thank you very much for your participation and assistance!

Sincerely,

Michael Rempel
Research Director and Principal Investigator – Center for Court Innovation

Appendix G

Letter to Prosecutor Offices

May 12, 2008

To the Prosecuting Attorney:

The Center for Court Innovation and the California Administrative Office of the Courts are conducting a national survey of domestic violence courts in order to illuminate the goals, policies, procedures, and achievements of domestic violence courts as well as to identify common challenges. Considering the crucial role of the prosecutorial philosophy and practice, we are also sending a survey to prosecutor's offices in every jurisdiction where we believe a domestic violence court to be present. The project is funded by the National Institute of Justice.

We would greatly appreciate it if you could complete the survey at your earliest convenience or have it completed by someone who is most familiar with the local domestic violence court. We anticipate that the questionnaire will take approximately 30 minutes to complete. Please return the survey in the enclosed envelope. You can also complete the survey on the internet; please let us know if you would like the internet address and the unique password assigned to your office.

Confidentiality: By completing the survey, you are agreeing to allow us to use the information that you provide in our study. We will not identify which prosecutor's office gave which responses without explicit permission from authorized personnel. We will also keep strictly confidential any personally identifying information such as your name and contact information. At the end of the study, we plan to produce a compendium listing the name and address of all domestic violence courts nationwide, but we will not reveal specific answers or policies of any particular court, nor will we reveal information about any of the local prosecutor's offices.

If you would like to learn more about the study or have any questions, please contact Melissa Labriola at the Center for Court Innovation: mlabriol@courts.state.ny.us or (212) 373-1693.

Thank you very much for your participation and assistance!

Sincerely,

Michael Rempel
Research Director and Principal Investigator