

Domestic Violence Courts

Components and Considerations

In May 2000, the Judicial Council of California released a legislatively mandated descriptive study of the state's domestic violence courts.¹ While the study revealed certain common practices among domestic violence courts, it also revealed that this is an emerging field that has yet to produce a particular model of court practice or procedure. By focusing on those courts indicating that they assign judicial officers to a special domestic violence calendar, exclusively or as part of a mixed caseload, and regardless of the specific models and practices they followed, the California study determined that at the time of the report the state had 39 domestic violence courts in 51 of its 58 counties.² In a 1998 survey that identified courts employing "specialized process[ing] practices for domestic violence cases," the National Center for State Courts found that there were more than 200 such courts throughout the United States.³

Although many different civil and criminal courts handle domestic violence cases, interest in establishing specialized domestic violence courts is increasing as the judicial system and legislatures continue to explore better ways of addressing intimate partner violence.⁴ Consequently, this is a particularly important time to carefully consider domestic violence court practice and procedure so that innovations reflect an understanding and commitment to safety, accountability, and guiding legal principles. This article further explores issues raised in the California study and considers what obligations domestic violence courts have to litigants and the larger community.

DOMESTIC VIOLENCE COURTS: WHAT ARE THEY, AND WHAT DO THEY DO?

Although there is no single definition of a "domestic violence court," the specialized approach many courts are taking to handle domestic violence matters has received increased attention in recent years.⁵ Various jurisdictions have established "domestic violence courts" that hear either criminal or civil matters or a combination of both. Some communities have also established juvenile domestic violence courts that address perpetration of violence by those under 18. While there is significant variation in how these courts are structured, they have a number of important similarities that enable domestic violence courts to identify themselves as separate and distinct from other courts. Whether calendars are civil or criminal, in domestic violence courts particular attention is paid to how cases are assigned, the need to screen for related cases, who performs intake-unit functions, what types of services are provided to victims and perpetrators, and the importance of monitoring respondents or defendants. This article addresses those courts seeking to be identified in the community as domestic violence courts.

In some jurisdictions, all domestic violence matters of a particular type—for example, felony assault and battery cases—may be handled by the specialized calendar. In other places, domestic violence matters may be combined in a court that handles both criminal and civil domestic violence matters on the same docket. Throughout



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Domestic violence courts represent one of the more recent judicial innovations aimed at addressing cases that appear in criminal, juvenile, and family law courts throughout California and nationally. This article expands upon issues raised in a recent descriptive study of California's courts and considers various tensions that arise as notions of safety and accountability intersect with legal concepts. Those establishing domestic violence courts are encouraged to consider a number of questions about various aspects of court process and procedure. By so doing, courts and policymakers can more effectively address the question of what responsibility domestic violence courts have to the larger community. ■

the country, domestic violence courts handle a wide variety of cases including criminal misdemeanor and felony assault and battery, child custody, juvenile and other family law matters, and civil restraining orders. This wide variety has developed in large part because domestic violence may be an issue in any of these subject-matter areas. Most nonspecialized courts, however, do not have ways of identifying “domestic violence cases” or methods of ensuring that court personnel know when related cases are active or pending in the court system.⁶ Therefore, one of the features of many domestic violence courts is a screening process that allows court personnel to identify related cases as well as to initially identify a case as one involving domestic violence.⁷

By definition, specialized courts require dedicated resources, especially facility space and specialized court personnel. For many communities, the lack of these particular resources serves as one of the significant obstacles preventing the establishment of domestic violence specialty courts.

WHY SHOULD COURTS FOCUS ON DOMESTIC VIOLENCE?

Domestic violence is a serious public health problem that requires intervention from a variety of institutions. Recent research indicates that 25 percent of women and 7.6 percent of men surveyed have experienced some form of physical assault or rape by an intimate partner during their lifetimes.⁸ In 1993, California’s Statewide Office of Family Court Services’ Statewide Uniform Statistical Reporting System (SUSRS) reported that in 62 percent of the 2,735 families participating in court-based child custody mediation, at least one parent stated that there had been physical violence at some point in the relationship with the other parent.⁹ Additionally, in half of all mediating cases, a domestic violence restraining order had been granted at some point.¹⁰ At least one parent in 49 percent of all families seen in mediation also reported that their children had witnessed incidents of violence in their families.¹¹ For many people, the court is one of the community institutions to which they turn for assistance when they experience intimate partner violence.

However compelling the statistics, they are not the only reason courts need to focus on domestic violence. Deborah Epstein provides two reasons domestic violence should be prioritized in efforts to reform courts: first, “domestic violence is rarely a one-time event, and without effective intervention, it typically increases in frequency and severity over time.”¹² Courts are well positioned to offer immediate, strong, and enforceable responses to violence that may make it less likely that further violence will

occur. Second, children are often harmed by adults who are battering other adults and may also be affected by the violence being directed only at another adult in the family.¹³ Many states have enacted legislation requiring that courts focus on the best interest of children and have specifically noted that violence and abuse are contrary to the best interest of children.¹⁴ Additionally, the fact of violence, if not acknowledged or addressed, can create an unsafe environment for court-connected personnel as well as litigants. Screening for domestic violence, combined with immediate and appropriate referrals, can enhance the safety of parties and court personnel. So, given that courts need to be addressing domestic violence, what is the most effective way for courts—specifically, emerging specialty courts—to respond?

EMERGENCE OF DOMESTIC VIOLENCE COURTS

There may be a tendency to relate the emergence of domestic violence courts to the establishment of other specialty courts, such as drug courts. Both specialty courts represent recent judicial innovations designed to better respond to significant individual and community problems.¹⁵ Both often use a “team approach” involving the judge, prosecutor, defense counsel, treatment or intervention provider, and probation or correctional personnel.¹⁶ By considering them as close developments, however, we may neglect the particular context in which domestic violence courts have developed and the unique considerations that must be taken into account in addressing intimate partner abuse and violence.

For example, in domestic violence matters, unlike most drug court cases, the court must contend with both a victim and a perpetrator and, frequently, their children. Knowing this, the judge has the challenge of fashioning a response that holds the perpetrator accountable while simultaneously enhancing the victim’s safety, since the litigants may be dependent upon each other for financial support or have reason to be in contact in the future. Treatment programs that address a range of issues are often considered appropriate in drug court and in domestic violence court. However, if a domestic violence court utilizes interventions that focus on treatment at the expense of accountability, it is possible that the dangerousness associated with domestic violence will be minimized. Additionally, as Andrew Klein has noted:

[O]ne reason drug courts are successful is that apart from anything else, they represent a sane alternative to draconian minimum mandatory drug laws. No one, I think, could realistically describe enforcement of domestic violence laws as draconian.¹⁷

The nature of domestic violence and the significant role courts can play in intervening in domestic violence cases require that careful consideration be given to what makes these courts different from other courts generally and other specialty courts specifically.

COORDINATED COMMUNITY RESPONSES

In an effort to expand the number of institutions that are responsive to domestic violence concerns, battered women's advocates have been working for years with community institutions to improve the way in which police departments, hospitals, mental health services, and courts work with victims and their families.¹⁸ These efforts have in large part been focused on improving coordination and communication, because up until recently, in almost all jurisdictions, there was a significant lack of coordination and systemic response to intimate partner violence that probably put many victims at greater risk.¹⁹ The lack of communication, coordination, cooperation, and understanding among various agencies meant that there were few standards, little consistency, and even less institutional accountability to the community. To counter these deficiencies, efforts to establish "coordinated community responses" developed and were perceived as one significant way to address these problems. The Duluth Abuse Intervention Project, which includes a strong arrest, prosecution, and probation component combined with victim services, is one of the most well known examples of a coordinated community response.

As is true currently with domestic violence courts, coordinated efforts take a variety of forms. Hart identifies the following approaches:

- Community partnering, which involves creation of work plans and utilizes coalitions
- Community intervention projects, which differ from community partnering largely insofar as they provide direct services to batterers from entry through exit from the justice system
- Task forces or coordinating councils, which generally provide assessments of community needs and recommendations for changes
- Training, technical assistance projects, and community organizing initiatives²⁰

Often, coordinated efforts emerge as a result of high-profile domestic violence cases; other times they result from political pressure or increased awareness of domestic violence as a result of research or policy changes. Given the legal recourse they provide, courts were always con-

sidered an essential component of a successful coordinated community response. In some communities, judicial leadership has resulted in formation of coordinating councils, and other coalitions or councils have benefited from the participation of judicial officers and other court-connected personnel.

Ideally, a successful, coordinated community effort sends the message that victims will be protected and that battering is dangerous and needs to be stopped. Because courts can offer legal remedies that can enhance safety (restraining orders and parenting plans) and increase accountability (contempt charges, arrest, prosecution), they are vitally important. However, to be most effective, courts need batterer intervention programs, probation departments, shelters, counseling services for victims, and supervised visitation programs. If those services are unavailable or not part of the coordinated effort to prevent violence, even the most committed court will have a difficult time addressing domestic violence.

Coordination within courts is just as important as coordination between community organizations and courts. Proponents of effective court practice note the importance for victim safety of coordinating cases within the justice system and have recommended that "family violence coordinators" be hired to work within court systems to coordinate and manage court processes.²¹ Therefore, dedicated domestic violence courts have, in large part, grown out of the push for coordinated community responses and those efforts geared specifically at improving court practice.

As more courts consider participating in coordinated community responses by establishing domestic violence courts, it may be useful to consider two important questions:

- Given that we are in a period of transition and experimentation, how can courts integrate various guiding principles of intervention to handle domestic violence matters most effectively?
- If a community declares itself as having a domestic violence court, what responsibilities does that court have to litigants and the community at large?

This article draws upon the thinking generated by advocates and researchers to suggest that when courts make the decision to establish or identify themselves as "domestic violence courts," they have a particular set of obligations that need to be addressed. By carefully considering that responsibility and the tensions that domestic violence courts will experience, communities may be more likely to produce courts that are responsive and representative of more effective responses to domestic violence.

GUIDING PRINCIPLES OF INTERVENTION

The movement to end domestic violence has consistently advocated adherence to two central principles of intervention: (1) enhance victim safety and (2) ensure batterer accountability. Regardless of whether a doctor, family member, employer, or law enforcement officer is intervening, these two principles are considered paramount. The consequences of ignoring either victim safety or batterer accountability may be dire. For example, focusing only on punishing or rehabilitating a perpetrator of a domestic violence crime may unintentionally place a victim at greater risk of additional harm if professionals do not take into consideration the effects on the victim of the criminal procedure. Likewise, if interventions only focus on individual victim safety and fail to hold batterers accountable for their behavior, it is unlikely that the batterer will stop being abusive or violent. While these principles may seem obvious on their face, in practice addressing both these concerns can be challenging and require a great deal of thought and planning.

For many years, victim advocates have sought to ensure that courts utilize these guiding principles in intervening in domestic violence cases. Courts have not always been perceived as being sensitive to the significant impact they have on victim safety or batterer accountability. In fact, the law historically provided little or no recourse for those experiencing intimate partner violence.²² Today, while significant statutory improvements and improved court practice combine to create more legal remedies and better outcomes, some courts are still criticized for not consistently being responsive enough to both safety and accountability.

Moreover, the judicial system has its own set of “guiding principles” that may at times appear to be at odds with those evinced by the domestic violence advocacy community. In a criminal law context, for example, “getting tough” on domestic violence has in many jurisdictions meant adoption of a “no-drop policy” supporting prosecution of perpetrators regardless of whether or not a victim agrees to cooperate with the process.²³ One could argue that this approach recognizes that the dynamics of domestic violence are such that perpetrators may try to coerce their partners into not cooperating with prosecutors. By developing an approach that makes victims less responsible for pursuing the case, the focus is more appropriately placed on the criminal behavior and the accused. However, this approach may also elevate perpetrator accountability over and above victim safety, as it ignores the fact that a victim may not want to participate in criminal justice proceedings out of genuine concern for her

well-being.²⁴ Therefore, the criminal court that wants to focus on a strong response to illegal behavior regardless of whether it occurs within the context of an intimate partner relationship and seeks to be responsive to victim safety has the responsibility of ensuring that victim services are available, responsive, and accessible. By doing so, it is more likely to be integrating each guiding principle.

In child custody matters, family courts have been guided by another set of principles that may conflict with victim safety. For example, frequent and meaningful parent-child contact is often encouraged,²⁵ but it also can interfere with a parent's safety if it requires contact with an abusive spouse. Similarly, courts utilizing the best-interest-of-the-child standard may have significant discretion in determining how to weigh evidence or allegations of acts of domestic violence in awarding custody. Those states that have implemented rebuttable presumptions in this context have indicated the significant role evidence of domestic violence should take in this process.²⁶ Nonetheless, there is generally significant room for courts to determine various outcomes in handling these matters.

Given the discretionary nature of the principle, in considering a child's best interest in the face of evidence of domestic violence, a court may come to a variety of conclusions. This reality can lead to one of the most problematic outcomes for mothers who are accessing domestic violence courts in family matters: the “bait-and-switch” phenomenon. In this scenario, a mother experiencing domestic violence seeks recourse in the family court. The court, faced with the need to make a decision regarding child custody, considers both parties' behavior and decisions within the context of the relationship. At this point, it may become clear that the mother has stayed in the relationship in the face of violence and abuse. Even though her decision to access the court suggests an interest in separating from the violence, court-connected personnel and judicial officers may still be asking themselves the ever-present question: Why does she stay?

If judges or court personnel answer that question by focusing on the victim, the case may end up being referred to dependency court or child protective services and be considered as a “failure-to-protect” matter.²⁷ From the court's standpoint, there may be genuine concern about a child's well-being for a number of reasons. For example, the court may have evidence of an abused parent's drug use, a victim/mother may have failed to appear for a restraining order hearing, or the court may want to enable the family to avail themselves of the additional resources for families in court. However, in this scenario, from the standpoint of the victim the guiding principle of “best interest of the child” ultimately pits the state against a

mother who *chose* to access the court system. The system at this point is positioned to intervene and focus not on the domestic violence that has been perpetrated, but on what is perceived by the court as the mother's inappropriate response. In other words, the mother has come to the domestic violence court to report domestic violence, the court says it focuses on domestic violence, and yet, from the woman's standpoint, the focus switches to her ability to prevent the batterer from harming the children. From there, it quickly becomes an assessment of the best interest of her children that does not include an understanding of the dynamics of domestic violence. Not only will this type of outcome pose a problem in individual cases, but it may also create a situation in which help-seeking by the community decreases. Courts need to figure out how to be cognizant of this problem and, through training and development of protocols, implement practices that reflect an understanding of the need to support the best interest of children by integrating notions of safety for victims and accountability for perpetrators into decision making.²⁸

A third area in which principles of intervention may conflict is the role that therapeutic jurisprudence may play in domestic violence specialty courts. By definition, domestic violence generally involves criminal acts between intimates, which may pose something of a conundrum for courts.²⁹ In addressing the criminal aspect of a case, the court may neglect the fact that the parties may have a history and perhaps a future together, especially if they have children. At the same time, if the court places undue emphasis on the fact that the litigants have had a relationship, the seriousness of the criminal behavior and the accountability of the perpetrator may be inappropriately minimized. The possibility of this happening is of greatest concern when notions of therapeutic jurisprudence are inappropriately applied to domestic violence courts. Like drug courts, domestic violence courts may have therapeutic benefits insofar as court intervention can in many instances improve people's lives. However, the danger lies in the possible minimization of the need for a strong law enforcement response in domestic violence cases.³⁰ Ordering perpetrators into batterer programs (not anger management or couples counseling³¹) and referring survivors to victim services or other assistance does not in and of itself represent a "soft" approach to domestic violence. Research on effective responses to battering suggest batterer intervention and court oversight combine with responsive law enforcement efforts to affect outcomes.³² Consequently, courts need to carefully consider the relationship of legal rules and procedures to the fundamental goals of increasing victim safety and ensuring batterer accountability.

DOMESTIC VIOLENCE COURTS: COMPONENTS AND CONSIDERATIONS

In considering how notions of safety and accountability might most effectively be integrated into specialty courts, it is useful to address each component of domestic violence courts: case assignment, screening, intake, service provision, and monitoring. Each of these aspects of domestic violence courts is considered and discussed in greater detail in the remainder of this article. The table on page 28 provides a way of analyzing these components and various considerations, posing questions that courts may contemplate as they assess their ability to provide safe and accountable procedures.

CASE ASSIGNMENT

One of the distinguishing features of domestic violence courts is the assignment of cases to specialized judges and the use of specialized personnel.³³ Some courts use a "combined calendar" in which both civil and criminal domestic violence matters are heard. Other courts assign a certain segment of domestic violence cases (for example, all felonies) to a particular judicial officer. There are family courts that reserve a portion of the calendar each week for hearing child custody matters that involve domestic violence restraining orders and others that hear all domestic violence child custody matters. Which cases are assigned to which courts has significant implications for domestic violence victims, perpetrators, and children involved in these proceedings.

For several reasons, there are potentially tremendous benefits in assigning cases to a dedicated calendar. First, the specialized personnel assigned to these calendars become intimately familiar with the complexities of domestic violence matters. Judicial officers, law enforcement personnel, and social services staff who work in these courts develop an expertise or specialty that can provide significant satisfaction as they employ their knowledge and experience in administering the court. Second, there is greater likelihood of consistency in orders. If the court becomes specialized and demonstrates an understanding of the complexities associated with these cases, it is more likely that the community will perceive that consistency as the court taking domestic violence matters seriously. Third, it may be more efficient for the various service providers who appear in domestic violence court to know that on a particular day and at a particular time a specific group of professionals will be addressing domestic violence-related cases. Otherwise, representatives may find themselves waiting as non-domestic violence cases are handled just in case a matter requires their expertise.

Domestic Violence Courts: Components and Considerations

	Separate Courts	Process and Procedures	Outcomes	Addressing Safety and Accountability	Effects on Community Relations	Effects on Court Personnel
Case Assignment to a Domestic Violence Court or Specialized Calendar	Is the separate court comparably funded?	Are cases moving at a pace that is responsive to victim safety and conducive to holding batterers accountable? Are orders more consistent? Are appropriate local service providers available to assist litigants?	Are outcomes measured in the separate domestic violence court, and if so, how? Are reports of "success" accurate?	Are protocols in place for case assignment so that information sharing supports the nonoffending parent and addresses victim and child safety?	Does the community perceive that the court takes domestic violence seriously? Do local service providers find the dedicated court responsive, accessible?	Are backup personnel available for court-connected professionals and judicial officers? Is there mentoring/support for judicial officers and personnel? Is it more or less appealing to be assigned here?
Screening for Domestic Violence and for Related Cases	Is screening done on only those cases assigned to the separate court?	Is screening for domestic violence and for related cases done throughout the life of a case?	Are screening mechanisms being reviewed to determine effectiveness?	Is screening resulting in discovery of related cases? Are more consistent orders resulting?	Is it clear to the community why screening for domestic violence and related cases is beneficial?	Are court personnel being trained and supported to screen?
Intake Unit	Is there a specialized intake unit with trained personnel?	Are intake personnel well trained on procedures that enhance safety?	Are outcomes being measured?	Is the intake unit well versed in protecting confidential addresses and taking other precautionary measures to protect safety?	Is the intake unit perceived as being accessible?	Do specialized personnel have backup?
Service Provision	Are safe, appropriate, and accessible resources available in the separate courts? Do litigants in non-domestic violence courts receive similar assistance if needed?	Are services mandatory where appropriate and available/optional where mandatory services would not be appropriate?	Are services accessible financially, physically, culturally, and linguistically?	Are the programs to which the court makes referrals safe and accessible, and do they reflect best practices?	Are services developed/offered in conjunction with the local community?	Are opportunities available for multidisciplinary teams, cross-training, coordination between services?
Monitoring	Is monitoring different in the domestic violence court than in other courts? If so, is it more or less strict?	Who provides monitoring, the court or probation?	Is monitoring increasing compliance with court orders? decreasing incidents of battering and abuse?	Does the monitoring agency consider victim safety? Are standards in place and are they followed?	Are monitoring systems set up to coordinate with local batterer and victim advocacy programs?	Are resources available for frequent monitoring?

In this way, community relations may be improved as the court can offer a more efficient and organized opportunity for service providers to assist the court.

The very act of creating a separate domestic violence court simultaneously creates one of the biggest potential benefits and one of the biggest potential disadvantages. In criminal matters, by separating domestic violence from other criminal cases, the judicial system is drawing attention to the fact that domestic violence is different from other crimes. The differences are significant insofar as the criminal justice system has traditionally been focused on addressing crimes between strangers, not people who may continue to have a relationship or who have children in common. There can be a great deal of value for victims if a criminal court understands this difference and provides court-connected services and personnel that can identify resources and respond accordingly.

However, separate courts may be a result of what has been described as an “overreaction to . . . uniqueness.”³⁴ Durham posits that compelled testimony and “victim-in-charge” policies, developed specifically to address the particular characteristics of domestic violence cases, create a situation in which the focus is on the victim or survivor and not on the perpetrator. She suggests that, in order for courts to be effective, support for the victim must be provided, the criminal justice must be accessible, and domestic violence must be treated as a crime and “the abusers as criminal.”³⁵ If the perception is that domestic violence courts are more likely to use “diversion” or “counseling” instead of holding batterers accountable for their behavior, the community will eventually lose faith in the courts’ ability to effectively address domestic violence. If the focus of the criminal justice system moves away from accountability, then it will not be useful or offer an improved process for addressing domestic violence. The danger in establishing separate courts is that domestic violence will be handled “differently”—i.e., less seriously. If “differently” means more attention is paid to the obstacles and barriers to accessing the system, safety and accountability are more likely to be addressed; if “differently” means more lenient, then it is less likely that the courts will be perceived as safe and well positioned to address accountability.

THE NEED FOR RESOURCES

It is important that, in considering how cases get assigned to particular calendars, domestic violence courts pay careful consideration to the arguments that are made to support their establishment. Given the limited resources available to most courts, it may be tempting to make the argument that cases will move more quickly or require fewer judicial and other resources in a specialized court.³⁶

In some instances, this may be accurate and beneficial for the parties and the court. However, it is also true that domestic violence courts may require significant resources. For example, a reallocation of personnel and facility space or an increase in both may be necessary. In making the case for domestic violence courts, policymakers must return to the guiding principles of intervention and consider whether in all cases faster case processing is better for victim safety and batterer accountability. Without data to describe and justify a particular approach, it is difficult to draw conclusions. However, the temptation to argue on behalf of domestic violence courts by downplaying the need for resources needs to be avoided in order to prevent the perpetuation of limited resources for these cases.

Along the same lines, it is important to consider whether or not the very act of separating domestic violence courts from other courts will create a situation in which the domestic violence court is unable to receive the funds it needs to carry out its functions. While many courts struggle with limited resources, there are any number of reasons a separate domestic violence court might find itself in a situation in which it has even fewer resources than already-strapped courts. Despite the number of people appearing on family matters (which often involve allegations of domestic violence), family courts tend to have the fewest resources.³⁷ Those establishing domestic violence courts therefore need to ensure that, by separating domestic violence matters from other matters, the specialty courts do not become marginalized or under-resourced. By assigning domestic violence cases to a separate calendar and not funding the specialty court accordingly, courts risk lending support to the notion that domestic violence court is a less desirable assignment than other criminal or civil calendars. Given the various resources that are needed in these cases, separate courts that are inadequately funded are unlikely to be able to respond to domestic violence in a way that is accountable to the larger community.

Personnel resources must also be considered. As domestic violence courts make use of specialized personnel, it is important that (1) training be available for all court personnel and (2) plans be made for inevitable absences and personnel changes. Because domestic violence will not always be immediately identified and all domestic violence matters will not automatically find their way to domestic violence court, it is useful to have as many court-connected personnel trained to recognize and respond appropriately when these issues present themselves. Additionally, assigning specialized personnel to a domestic violence docket requires the availability of backup personnel. Too often a change in leadership or assignment creates a crisis in the court and the community

because the particular approaches used by that judicial officer and associated court personnel are not institutionalized. Some of that can be avoided if provisions are made for the inevitable absence or unavailability of specialized personnel.³⁸

EFFECTS ON COURT PERSONNEL

It is also important to consider the effect a specialized assignment may have on people who may be working with domestic violence cases exclusively. While there is significant concern among some judicial officers that the emotional and complex nature of these cases may contribute to personnel experiencing “burnout,” court personnel also report that they derive significant satisfaction from working on a dedicated domestic violence calendar.³⁹ To avoid burnout, those jurisdictions that have a consistent team of people working in the dedicated court may be able to form a network of colleagues who can assist in the administration of the specialty court. Others may benefit from increased contact with the community through participation on domestic violence coordinating councils. Still others find satisfaction from consulting with a multidisciplinary team of people working to find solutions that benefit entire families and enable the development of a more systemic approach to the seemingly intractable problems many families present.

OUTCOMES

Realistically assessing outcomes is one of the more challenging aspects of domestic violence courts as it is tempting to want to argue that domestic violence courts produce better outcomes. While this may be true, there are a number of questions concerning what constitutes a “better outcome” and how that can best be measured. Some may suggest that using recidivism rates—for example, whether a family appears again in the same court—is a useful way of measuring outcomes. However, not seeing a family in court again may be just as much about their feeling that the court was not responsive as it is about the court intervening successfully. Likewise, measuring success by looking only at whether the batterer successfully completes a batterers program without having a sense of whether or not a victim feels more autonomous and safe may produce exaggerated notions of success. Given the limited resources available to domestic violence courts, many are relying on anecdotal information to measure effectiveness and report a variety of positive outcomes.⁴⁰ It is critically important that in assessing effectiveness, emphasis be placed on whether victims are, or feel, safer as a result of court intervention. This guiding principle should be employed not only in implementing court processes but also when evaluating outcomes. Additionally, resources need to be made

available to courts for data collection and research so that they may be in a better position to evaluate effectiveness with victim safety in mind. Many courts are keenly aware of the limited knowledge they have about their impact and would welcome the opportunity to better understand their processes and procedures.

SCREENING FOR DOMESTIC VIOLENCE AND RELATED CASES

In domestic violence courts, “screening” may refer to either assessing cases for the occurrence of domestic violence or searching for related cases. Screening for the occurrence of domestic violence is most often done by court-connected personnel (mediators, investigators, or evaluators). This type of screening requires well-trained personnel, adoption of protocols and methods for screening, and significant clarity about the purpose of the screening process. This approach accurately assumes that not all domestic violence matters will be obvious and that domestic violence issues may still be relevant, especially in child custody matters, even when a case is not initially identified as such.

Whether or not a particular court has the resources to screen adequately has significant implications for those experiencing or perpetrating domestic violence. Today, parties are often unrepresented and many families have matters pending in more than one courtroom.⁴¹ Parties may not reveal information about domestic violence or related cases out of concern or misunderstanding about what may happen or out of lack of understanding of the court system. At the same time, if a judicial officer or other court-connected personnel, such as a family court services mediator or child custody evaluator, is unaware of related pending cases, it is possible that the family will emerge from the court system with conflicting and possibly unworkable court orders. In that case, it is unlikely that the court will be perceived by the community as accessible or responsive.

An even worse case scenario may be imagined when information is shared about related or pending cases but no protocols are in place to address concerns of safety and accountability. In those cases, it may be that information sharing contributes to, rather than prevents, a victim's sense of confusion and distrust of the judicial system. The most profound example of this is apparent in the situation described earlier: a victim of domestic violence comes to court seeking protection and recourse as a result of an assault or battery. As a result of screening, additional details on the matter may be gathered and the screener may believe a referral to juvenile court is necessary. If the purposes of the screening were identified initially, the court may be more likely to avoid the situation in which

the victim feels undermined after having shared information in the screening process. For example, the court might clearly state on written questionnaires or intake forms that screening will be done for the purpose of assessing risk to children or to provide more appropriate services. While providing notice does not in and of itself preclude the possibility of a victim of domestic violence being referred to services or other court proceedings (inappropriately, perhaps, from her standpoint), it may prevent petitioners from being surprised by the process or outcome. Other purposes of screening include assessing whether parties can meet together in mediation or evaluation sessions or to determine capacity to negotiate on behalf of oneself in a custody mediation.

INTAKE UNITS

Intake units in domestic violence courts relate closely to screening as it is through the intake unit that much of the initial screening takes place. Some courts have established specialized units staffed by personnel with experience in working with victims and perpetrators. The intake unit may serve as “the first point of contact for victims of domestic violence”⁴² and staff may help petitioners better understand the court process. Difficulties may arise if these intake units do not include specially trained personnel or individuals who are sensitive to the complexities of these cases. In some jurisdictions, intake staff assist litigants in filling out forms, provide an orientation to the legal system, or escort parties to court and through the courtroom process.⁴³

A lack of resources may compel some jurisdictions to consider assigning someone with less domestic violence experience to the intake unit and in so doing run the risk that it is inhospitable to litigants. This can directly affect safety, for if victims perceive the court as inaccessible, they are less likely to reappear or get the help they need when they do initiate or participate in court proceedings.

Personnel training is crucial. For example, it is essential that staff understand the importance of maintaining confidential addresses and that they have information about additional community resources. Intake units need to be physically, culturally, and linguistically accessible so that people from a variety of communities will be able to utilize the court.

In many ways, the intake center is the center of the domestic violence court and has the greatest potential to shape litigants’ experiences. As has been noted,

An effective domestic violence intake center must serve as the point of entry for all domestic violence complainants in civil and criminal cases. It should be designed to provide comprehensive services through a coordinated effort of staff.⁴⁴

SERVICE PROVISION

One of the more universal features of domestic violence courts is the increased accessibility of social or community services for petitioners and respondents.⁴⁵ Many non-specialized courts invite representatives from local counseling and housing services to be available in court when the calendar is called so that individuals may be provided with immediate assistance. Others provide referrals to court-connected personnel, such as child custody mediators or evaluators, who may be able to provide direct assistance or more individually tailored referrals to community agencies. But as a result of the volume of cases and limited resources, not every case is assessed individually, so that those appearing in court may or may not receive tailor-made responses to the host of difficulties they may present. Domestic violence courts, however, tend to offer a range of services for children, parents, victims, and batterers.⁴⁶

People appearing on other calendars may need a variety of services that might be offered only in the domestic violence court. For example, community agencies, including supervised visitation services, counseling programs, and services specifically for children, may have representatives available in domestic violence court to provide information, referrals or direct service. One of the issues to consider in establishing a domestic violence court handling family matters is that if individuals can get certain community services only in domestic violence court, what kind of impact will that have on litigants who are appearing on more general calendars? High-conflict families who may not be experiencing “domestic violence” may still need similar resources; thus, it is worth considering whether cases have to be identified as domestic violence matters in order for certain services to be offered.

One of the challenges associated with service provision in domestic violence courts, civil or criminal, is the question whether mandatory services are appropriate and for whom. Currently, many states require those found to have perpetrated domestic violence to attend a batterers’ program.⁴⁷ In most places, these programs provide for group sessions that may last for one year or longer and provide information to the court about compliance with court orders and completion of program requirements. While “success” is defined and measured in a variety of ways by different programs, there is “fairly consistent evidence that [batterers’] treatment ‘works’ on a variety of dimensions and that effects of treatment can be substantial.”⁴⁸ Such services are likely to be more beneficial when they follow recognized standards and are culturally and linguistically accessible.

On the other hand, while victims might find counseling programs worthwhile, mandating that victims attend

counseling programs carries significant risk. Any effort to ensure that victims of domestic violence receive assistance must be done in the context of understanding that intimate partner violence involves power and control. When a victim of domestic violence becomes involved in the court system, court-connected personnel need to intervene in a way that acknowledges that in many cases the victims themselves have the greatest understanding of what is necessary for their safety and that of their children. This approach acknowledges and supports the autonomy of adults who happen to have been victimized and can contribute to the process of recovery and empowerment. Court personnel may be able to provide more effective assistance with safety plans and appropriate referrals when they recognize that mandating certain courses of actions for victims may place them in greater jeopardy.⁴⁹

If services can be offered to support individuals and families, they should be developed primarily by local domestic violence victim service organizations. Courts, especially domestic violence courts, need to be clear about their role and have an understanding of the significant impact they can have on victims and batterers if they send the message that coming to court *seeking protection* means being required to participate in various programs. Such an approach may have the unintended effect of reinforcing the batterer's belief that the victim is responsible for the violence and that his role is relatively inconsequential, or that if they are both ordered into counseling, they are equally culpable. Courts need to resolve how to best provide services that are accessible and attractive to those who may benefit from them without using the power and control tactics with which the victim is already familiar.

Social service agencies should also be considered in terms of their willingness and ability to comply with local rules, standards of practice, professional ethics, and other recommendations for best practices. Even if courts do not perceive that they have a formal relationship with local social service agencies, for litigants the distinction between "court-connected" and "court-referred" may be inconsequential. Domestic violence courts should become familiar with the various resources that exist. One way of doing this is for courts to participate on coordinating councils and local coalitions so that personnel learn about local organizations. Additionally, by subscribing to newsletters and staying current on social science information, court personnel may be better equipped to discuss best practices with local agencies and emerge as leaders in the area.

MONITORING

In many ways, once a court has issued an order in a case, the court has completed its job and must leave the enforcement of that order to other players, such as police

or sheriff departments. There are instances, however, in which courts stay involved in cases even after orders have been made. In these instances, the challenge for the court is how to create orders that will be complied with while at the same time not creating a situation in which courts are serving as long-term case managers. For many years, probation departments have provided supervision or monitoring. Today, many communities use a combination of batterer intervention service providers and probation to monitor batterer compliance with court orders. If a violation occurs, the batterer may find himself back in front of the judge on a probation revocation hearing. Other approaches include frequent monitoring by the judicial officer as well as probation and batterer intervention programs. In these courts, probationers are expected to appear regularly for 30-, 60-, and 90-day meetings with the judicial officer assigned to hear the matter. Recent research indicates "a substantial increase in compliance" with batterers' program requirements when mandatory court monitoring is in place.⁵⁰

Domestic violence courts also need to take into consideration what happens when individuals, court-connected personnel or litigants, fail to appear. When a calendar is being called, generally there are people in the room at all stages of the process. If the message is that one can fail to appear with few repercussions or that probation officers or other monitoring agencies may not be present, it is less likely that perpetrators will take the authority of the court seriously. How the judicial officer chooses to handle such occurrences can have significant impact on the perceived effectiveness of these courts.

INTERVENING EFFECTIVELY

As one of the judicial system's most recent responses to domestic violence, domestic violence courts represent a potentially significant method of handling civil and criminal cases. By identifying domestic violence as a serious community issue that requires dedicated resources, specialized courts can send a strong message about the importance of addressing domestic violence effectively and consistently. However, in order to do so, domestic violence courts need to adhere to the guiding principles of intervention and focus their efforts on enhancing victim safety and ensuring batterer accountability. Domestic violence courts can be faced with a variety of competing notions of intervention. However, by becoming aware of the need to proceed with caution and to carefully consider the implications of identifying itself as a "domestic violence court," the court may be perceived by the larger community as accessible and responsive. At the same time, courts and legislatures need to recognize that success may result in increased caseload and more demands on

the system. Additional resources need to be allocated to support courts handling domestic violence cases and to supporting additional research so that over time, judges, court-connected personnel, and policymakers can develop an even better sense of the most effective and responsive ways for courts to intervene in domestic violence matters.

NOTES

1. JUDICIAL COUNCIL OF CALIFORNIA, DOMESTIC VIOLENCE COURTS: A DESCRIPTIVE STUDY (2000).
2. *Id.* at 10.
3. Amy Karan et al., *Domestic Violence Courts: What Are They and How Should We Manage Them?*, 50 JUV. & FAM. CT. J. 75 (Spring 1999).
4. Courts state a variety of reasons for establishing domestic violence courts. Some indicate that they felt a need for more consistency and predictability while leaving room for judicial discretion. Others indicate that a dedicated docket provides support for victims because there is an advocate in the courtroom and it is “good for ‘baby’ [junior] prosecutors who are dealing with the nuances of domestic violence for the first time.” Susan R. Paisner, *If It’s Friday, It Must Be Domestic Violence Court*, 6 DOMESTIC VIOLENCE PREVENTION 3 (June 2000). Legislators have indicated their belief that domestic violence courts are effective as well. *See* 1998 Cal. Stat. 703 (mandating the domestic violence court study and stating that “[t]he Legislature finds and declares that domestic violence courts have been proven to benefit victims of domestic violence and to provide for the efficient handling of domestic violence cases”).
5. *See* Karan et al., *supra* note 3, at 75; Betsy Tsai, *The Trend Toward Specialized Domestic Violence Courts: Improvements on an Effective Innovation*, 68 FORDHAM L. REV. 1287 (2000).
6. Karan et al., *supra* note 3, at 75.
7. Victims of domestic violence may not initially reveal experiences of abuse out of fear, concern for their safety and that of their children and other family members, concern that they will not be believed, or lack of understanding of what information the court will find most relevant. Additionally, recent research indicates that of those surveyed and reporting physical assault by an intimate partner, approximately 73 percent of women and 86 percent of men did not report the assault to the police. In the same study, approximately one-third of women and one-quarter of men said “they did not want the police or courts involved,” indicating, as the study’s authors note,

that “many victims of intimate partner violence—men and women alike—do not consider the justice system a viable or appropriate intervention at the time of their victimization.” *See* PATRICIA TJADEN & NANCY THOENNES, EXTENT, NATURE, AND CONSEQUENCES OF INTIMATE PARTNER VIOLENCE: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY, NCJ Doc. No. 181867, at 51 (U.S. Dep’t of Justice 2000). One of the benefits of a specialized intake unit is that personnel can assist individuals in presenting their story in an appropriate manner to the court so as to provide a greater likelihood that interventions may be effective.

8. *Id.* at iii.

9. Charlene E. Depner, Court-Connected Mediation of Child Custody and Visitation: Statewide Statistics From the Family Court Services Uniform Statistical Reporting System, Presentation at Domestic Violence Training for Child Custody Evaluators, Monterey, Cal. (Dec. 15–17, 1997).

10. *Id.*

11. *Id.*

12. Deborah Epstein, *Effective Intervention in Domestic Violence Cases: Rethinking the Roles of Prosecutors, Judges, and the Court System*, 11 YALE J.L. & FEMINISM 7 (1999).

13. *Id.* at 8.

14. *See, e.g.*, CAL. FAM. CODE § 3011 (West 1994 & Supp. 2000) (requiring that courts consider any “history of abuse by one parent or any other person seeking custody against any of the following: (1) Any child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary; (2) The other parent; (3) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship”); *see also* CAL. FAM. CODE § 3020(a) (West 1994 & Supp. 2000) (declaring that “perpetration of child abuse or domestic violence in a household where a child resides is detrimental to a child”).

15. According to the U.S. Justice Department, “drug courts leverage the coercive power of the criminal justice system to achieve abstinence and alter criminal behavior through the combination of judicial supervision, treatment, drug testing, incentives, sanctions, and case management.” U.S. Dep’t of Justice, at www.ojp.usdoj.gov/dcpo/ (visited Aug. 2, 2000).

16. David Rottman & Pamela Casey, *Therapeutic Jurisprudence and the Emergence of Problem-Solving Courts*, NAT’L INST. JUST. J. No. 240 (July 1999).

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17. Andrew Klein, *Letter*, NAT'L BULL. DOMESTIC VIOLENCE PREVENTION (Mar. 1999).
 18. For a discussion of the purpose, goals, and elements of a successful coordinated community response, see Barbara Shaw, *Planning a Coordinated Community Response*, in FAMILY VIOLENCE: BUILDING A COORDINATED COMMUNITY RESPONSE: A GUIDE FOR COMMUNITIES 11 (American Medical Ass'n 1996).
 19. Barbara Hart, *Coordinated Community Approaches to Domestic Violence*, Presentation at the Strategic Planning Workshop on Violence Against Women, National Inst. of Justice, Washington, D.C. (Mar. 31, 1995).
 20. *Id.* at 3–4.
 21. NATIONAL COUNCIL OF JUVENILE & FAMILY COURT JUDGES, FAMILY VIOLENCE: IMPROVING COURT PRACTICE: RECOMMENDATIONS FROM THE NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES 39 (1990).
 22. See Tsai, *supra* note 5, at 1289 (citing several examples, including *State v. Rhodes*, 61 N.C. (Phil. Law) 349 (1868), in which the North Carolina Supreme court “addressed the question of whether a husband could be punished for unprovoked and moderate correction of his wife, and stated that ‘we will not interfere with family government in trifling cases’ where ‘personal conflicts inflicting only temporary pain . . . are not comparable with the evils which would result from raising the curtain, and exposing to public curiosity and criticism, the nursery and the bed chamber.’”).
 23. See Gena L. Durham, *The Domestic Violence Dilemma: How Our Ineffective and Varied Responses Reflect Our Conflicted Views of the Problem*, 71 S. CAL. L. REV. 652 (1998) (discussing the pros and cons of a “no-drop” prosecutorial policy and the view that “[t]he major problem with the compelled testimony policy is that it sets up an adversarial relationship between the victim and the prosecutor”).
 24. Not that the two are always incompatible; in fact, one can rarely be accomplished without the other. If procedures are in place to support a victim’s safety, it is more likely that courts will get better information and be able to more effectively hold perpetrators accountable.
 25. Note that some states have approached this potential conflict by addressing both issues simultaneously. See, e.g., CAL. FAM. CODE § 3020(b) (West 1994 & Supp. 2000) (stating that “[t]he Legislature finds and declares that it is the public policy of this state to assure that children have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage or ended their relationship, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy except where the contact would not be in the best interest of the child . . .”); see also CAL. FAM. CODE § 3020(a) (stating that “the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the child”). Section 3020(c) notes that where (a) and (b) are in conflict, “any court’s order regarding physical or legal custody or visitation shall be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members.” CAL. FAM. CODE § 3020(c).
 26. See, e.g., CAL. FAM. CODE § 3044 (West 1994 & Supp. 2000) (creating a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a party seeking custody and found to have perpetrated domestic violence within the previous five years is detrimental to the child’s best interest).
 27. See Somini Sengupta, *Tough Justice: Taking a Child When One Parent Is Battered*, N.Y. TIMES, July 8, 2000, at A1 (discussing the Bronx Family Court’s approach in cases in which one parent has been a victim of domestic violence and children have been removed from parental care); see also Epstein, *supra* note 12, at 35 (discussing how an “integrated court system” can lead to more victims being charged with child abuse or “failure to protect”).
 28. The National Council of Juvenile and Family Court Judges recommends that in promoting “stability and permanency for children,” courts and child welfare personnel should “try to keep children affected by maltreatment and domestic violence in the care of their non-offending parent (or parents) whenever possible.” They note that “[m]aking adult victims safer and stopping batterers’ assaults are two important ways to remove risk and thereby create permanency for children.” NATIONAL COUNCIL OF JUVENILE & FAMILY COURT JUDGES, EFFECTIVE INTERVENTION IN DOMESTIC VIOLENCE AND CHILD MALTREATMENT CASES: GUIDELINES FOR POLICY AND PRACTICE 19 (1999).
 29. For a comparison of court treatment of domestic violence and date rape as two examples of crimes in which the parties know each other, see Durham, *supra* note 23, at 657.
 30. Therapeutic jurisprudence “proposes that we be sensitive to . . . consequences, and that we ask whether the law’s antitherapeutic consequences can be reduced and its therapeutic consequences enhanced without subordinating due process and other just values.” Rottman & Casey, *supra* note 16, at 9. Drug courts are the most familiar example of a therapeutic approach. The question for domestic violence courts is, Does a therapeutic approach hold perpetrators accountable for violent crimes? Generally, drug courts are applying these principles to those

found guilty of nonviolent offenses. If domestic violence courts are perceived as specialty courts that emphasize a “therapeutic approach” to violence, they may be viewed as treating domestic violence as a “non-crime” or a lesser offense that does not warrant the restrictions placed on those found guilty of violent crimes perpetrated against strangers. The danger for battered women is that battering and abuse will be perceived as a family problem that can best be solved through counseling, alternative dispute resolution, and educational programs. While it is likely that there are therapeutic benefits to successful domestic violence courts, this in no way implies that domestic violence should be taken less seriously.

31. Regarding batterers’ treatment, *see* NATIONAL COUNCIL OF JUVENILE & FAMILY COURT JUDGES, FAMILY VIOLENCE: IMPROVING COURT PRACTICE 50 (1990) (noting that “[i]nappropriate approaches might be those which orient themselves toward the couple before dealing with the offender’s criminal behavior; focus on anger control without dealing with the underlying issues of self-esteem, power and control; or approaches which put the needs of the offender above the needs of the court system for accountability and safety”). As the council observes, “[s]uch approaches not only will be ineffective in dealing with the battering behavior, they put the victim at substantial risk of revictimization.” *Id.*

32. Edward W. Gondolf, *Mandatory Court Review and Batterer Program Compliance*, 15 J. INTERPERSONAL VIOLENCE 437 (Apr. 2000).

33. *See* Karan et al., *supra* note 3, at 76. In this context, “specialized” generally refers to those with specific training in domestic violence issues.

34. Durham, *supra* note 23, at 643.

35. *Id.* at 657.

36. For example, 30 of 39 domestic violence courts described in the California domestic violence courts study indicated that “more efficient use of resources” was one of their goals in establishing a domestic violence court. Clearly, using resources more efficiently is probably beneficial to victims and others accessing the court. The problem arises when there is little acknowledgement that in order to handle domestic violence cases more *effectively*, additional resources may be necessary. JUDICIAL COUNCIL OF CALIFORNIA, *supra* note 1, at 19.

37. *See* JUDICIAL COUNCIL OF CALIFORNIA, ACHIEVING EQUAL JUSTICE FOR WOMEN AND MEN IN THE CALIFORNIA COURTS 179 (1996) (discussing the “devaluation of family law” and the finding of the Advisory Committee on Gender Bias and the Courts that “[t]he family law court has been relegated to an inferior status among the

other departments of the court ... [and] [t]he proportion of the court’s resources devoted to family law is not commensurate with its volume, complexity, or importance to the parties and society”). Domestic violence courts, like family courts, involve a disproportionate number of cases with women and children seeking or requiring protection or assistance from the court.

38. The policies and procedure manual for domestic violence courts of Mecklenburg County, North Carolina, notes that judges “should schedule their vacations and other absences from court for weeks when they are not assigned to Domestic Violence Court.” In cases in which this is not possible, the manual states, “another Domestic Violence Court judge should cover for the absent judge.” Domestic violence court judges are required to “be interested in this subject, knowledgeable about its dynamics and the courtrooms’ procedures, and committed to the goal of reducing domestic violence in our community.” DOMESTIC VIOLENCE COURTS: POLICIES AND PROCEDURES, Manual Domestic Violence Task Force, 26th Judicial Dist., Mecklenburg County 4 (Oct. 1997).

39. Jeffrey Bostwick, Comments at Panel Discussion on Domestic Violence Courts, Family Violence & the Courts: A Coordinated Community Response, Judicial Council of California (May 18–19, 2000).

40. For example, Greta G. Holloway, an assistant state’s attorney in Montgomery County, Maryland, believes that a dedicated domestic violence docket offers various benefits, including more victim support, and that the domestic violence court’s approach has been successful. She goes on to note, in response to the question “how she would precisely define ‘success,’” that “no one has died.” Paisner, *supra* note 4, at 4. The Brooklyn Domestic Violence Court indicates that the “probation violation rate for defendants sentenced in 1998 is nearly half the typical rate for this population,” [that] “victim advocates assigned to the court have made contact with virtually all victims ... and [that] the Court has achieved an average dismissal rate of 4.7 percent over its first two years.” Center for Court Innovation, Demonstration Projects, Brooklyn Domestic Violence Court, at www.courtinnovation.org/demo_04bdvc.html (visited Aug. 2, 2000).

In Florida, based on a survey of judges and state’s attorneys, the staff of the state’s Senate Criminal Justice Committee found that people were “mostly positive about domestic violence courts,” although “defense attorneys took a largely negative view.” They also found that “domestic violence courts, especially those which combine the civil and criminal components, increase administrative efficiency ... [and] that the difficult family and abuse issues make domestic violence specialization beneficial to

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the administration of justice." FLORIDA'S CORRECTIONS COMM'N, AN OVERVIEW OF FLORIDA'S CRIMINAL JUSTICE SPECIALIZED COURTS, prepared by Florida Senate's Criminal Justice Comm. Staff, REP. NO. 97-P-21 (Oct. 1997).

41. Center for Families, Children & the Courts statistics "show that in half of the families who come to family court [in California] (53 percent), at least one person is in pro per. When only one party is represented, neither mothers nor fathers are more likely to have attorneys. In 12 percent of the families fathers were the only represented party; mothers were the only party with an attorney in 13 percent of the cases." CENTER FOR FAMILIES, CHILDREN & THE COURTS, REPORT 12: PREPARING COURT-BASED CHILD CUSTODY MEDIATION SERVICES FOR THE FUTURE 3 (Judicial Council of California, Sept. 2000).

42. Tsai, *supra* note 5, at 1305.

43. For example, in Quincy, Massachusetts, those seeking restraining orders first meet "with a domestic abuse clerk in a separate office established exclusively for restraining orders." Assistance with paperwork and information about local resources are provided; then petitioners attend "a briefing given daily by the District Attorney's Office, in which a victim/witness advocate" provides information on the court process, civil and criminal legal remedies, and other resources. After this, "the domestic abuse clerk provides moral support by accompanying the woman to the courtroom" for the expedited hearing process used in Quincy. *Id.* at 1298.

44. Epstein, *supra* note 12, at 29.

45. JUDICIAL COUNCIL OF CALIFORNIA, *supra* note 1, at 14: Out of 26 domestic violence courts indicating that they provide referrals to services, 20 said they assign advocates to petitioners.

46. *Id.* Referrals are to agencies and organizations providing, for example, community support, children's services, substance abuse treatment, pro bono attorneys, emergency housing, services for immigrants, support groups, public assistance, job counseling, elder assistance, and medical services. The court may also provide interpreters and translators. One of the difficulties courts experience is not having the resources to provide needed services or appropriate referrals. For example, not all domestic violence services are accessible to those who do not speak English. See Kimberle Williams Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, in CRITICAL RACE THEORY 364-67 (Kimberle Crenshaw et al. eds., The New Press 1995) (discussing the policies that keep women from being able to access certain services); see also Gloria Bonilla-Santiago, *Latina Battered Women: Barriers to Service Delivery and*

Cultural Considerations, in HELPING BATTERED WOMEN: NEW PERSPECTIVES AND REMEDIES 229-34 (Albert R. Roberts ed., Oxford 1996) (noting that in a study of "twenty-five incarcerated battered Latina women, ... because of language and cultural barriers, most ... had received no assistance or protection from the police, legal aid, welfare, family counseling agencies, or community mental health centers").

47. See, e.g., CAL. PENAL CODE § 1203.097 (West Supp. 2000) (mandating court referrals to certified batterers' programs for certain offenses).

48. Alyce LaViolette, *Batterers' Treatment: Observations From the Trenches*, 1 CENTER FOR FAM., CHILDREN & CTS. UPDATE 13 (July 2000).

49. See also NATIONAL COUNCIL OF JUVENILE & FAMILY COURT JUDGES, *supra* note 28, at 66 (suggesting that "[c]hild protection services should avoid using, or use with great care, potentially dangerous interventions such as couple counseling, mediation, or family group conferencing in cases of domestic violence").

50. See Gondolf, *supra* note 32, at 435 (describing findings indicating that court review increases the likelihood that participants in court-referred batterers' programs will comply and complete programs).