



# Conference Faculty



## REBECCA THOMFORDE HAUSER

Ms. Thomforde Hauser is the Associate Director of Domestic Violence Programs at the [Center for Court Innovation](#) in New York, NY. As the Associate Director, Ms. Thomforde Hauser assists jurisdictions nationally and in New York State to plan and implement Domestic Violence, Integrated Domestic Violence, Sex Offense and Youthful Offender Domestic Violence Courts. At the Center, Ms. Thomforde Hauser provides training to judges and court stakeholders on a variety of domestic violence issues, facilitates site visits to model courts, and provides on-going technical assistance to courts and stakeholder agencies. Additionally, Ms. Thomforde Hauser is the Batterer Accountability Coordinator for the state of Vermont, overseeing the certification process of batterer intervention programs, providing training and technical assistance to batterer programs, working with the Department of Corrections in Vermont to craft policies and procedures that enhance victim safety and offender accountability, and reporting to Vermont's Council on Domestic Violence.

## Domestic Violence Courts: Innovative Strategies for Enhancing Victim Safety and Offender Accountability

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BISC-MI CONFERENCE 2015

## Learning Objectives

- ▶ Explain the Domestic Violence Court model and place within the context of problem solving courts
- ▶ Discuss the role of community stakeholders, including batterer programs and probation, in the planning and implementation of effective domestic violence courts
- ▶ Examine evidence based best practices and innovative domestic violence court strategies employed to enhance victim safety and offender accountability

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## The Center for Court Innovation

The Center for Court Innovation is a unique public/private partnership that promotes new thinking about how courts and criminal justice agencies can aid victims, address the behavior of offenders, and strengthen communities.



## Problem-Solving Courts

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Problem-solving courts are designed to improve case outcomes for those involved in the criminal justice system and their communities.

## Problem-solving Courts cont'd:

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- ▶ Designed to change the behavior of defendants, prevent future offending and to make communities safer.
- ▶ Standard practice around the US, with over 1000 problem-solving courts nationwide.

## Examples of Problem-Solving Courts

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Two kinds of models:

Therapeutic or alternative to incarceration models:

- Drug Courts
- Community Courts
- Mental Health Courts
- Human Trafficking Intervention Courts

Accountability models:

- Sex Offense and Domestic Violence Courts

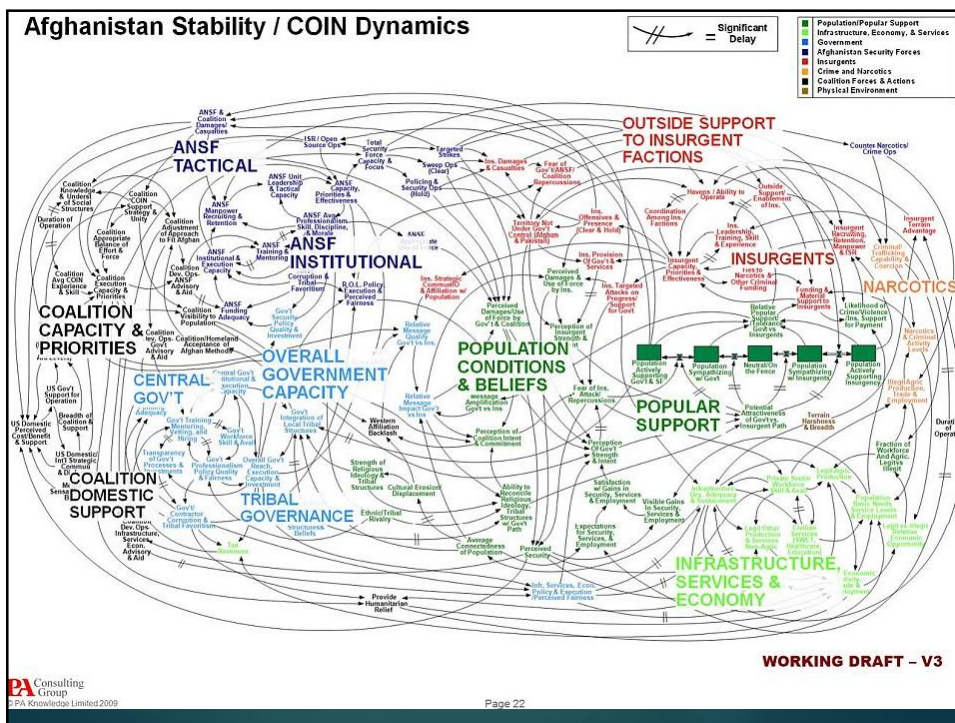
## WHY?

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The key question precipitating the creation of a problem solving court is:

“Is there a better way to do this?”

# What is Access to Justice?



## Orchid G.'s Story

*"In five years in the court system, I had 14 separate cases in seven different courtrooms before seven different judges. I am not only a victim of domestic violence, I am a victim of a court system that is confusing, unfriendly and dangerous to victims."*



*"One possible judicial response [] is to continue to process domestic violence cases as any other kind of case, and to continue to observe systemic failures. Another response, however—the problem solving response—is to try to design court programs that explicitly take into account the special characteristics that domestic violence cases present. If domestic violence defendants present a particular risk of future violence, then why not enhance monitoring efforts to deter such actions? If victims remain in abusive situations due to fear for their own and their children's well being, then why not provide links to services and safety planning that may expand the choices available to them? If cases are slipping between the cracks of a fragmented criminal justice system, then why not work together to improve coordination and consistency?"*

Judith S. Kaye and Susan Knipps, *Western Law Review*

## The Models

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- ▶ Working with the judiciary
- ▶ Engaging relevant stakeholders
- ▶ Utilizing existing resources
- ▶ Improving coordination and communication
- ▶ Education and training of court personnel
- ▶ Evaluation and Research

## Goals of Justice Intervention in Domestic Violence Cases

- ▶ Stop the violence
- ▶ Protect the abused party/children
- ▶ Protect safety of family members and public
- ▶ Hold perpetrator accountable
- ▶ Educate the perpetrator
- ▶ Stop emotional, financial and physical abuse used to control and coerce victims/children
- ▶ Break intergenerational cycle of violence
- ▶ Convey to public that DV is a crime and not a "private family matter"

## Background of Domestic Violence Courts

- ▶ Since the late 1970s, advocates have attempted to transform inadequate criminal justice response to domestic violence
  - ▶ Pro-arrest policies
  - ▶ Evidence-based prosecution
  - ▶ Specialized prosecution units
  - ▶ Passage of Violence Against Women Act in 1994
- ▶ Massive influx of domestic violence cases into courts (178% increase from 1989-1999)

## Definition of Domestic Violence Court

- ▶ No unifying definition
- ▶ Typical components:
  - ▶ All cases on one or more separate calendars
  - ▶ One or more “dedicated” judges
  - ▶ Dedicated staff
- ▶ Similarities and differences from other “problem-solving” court models

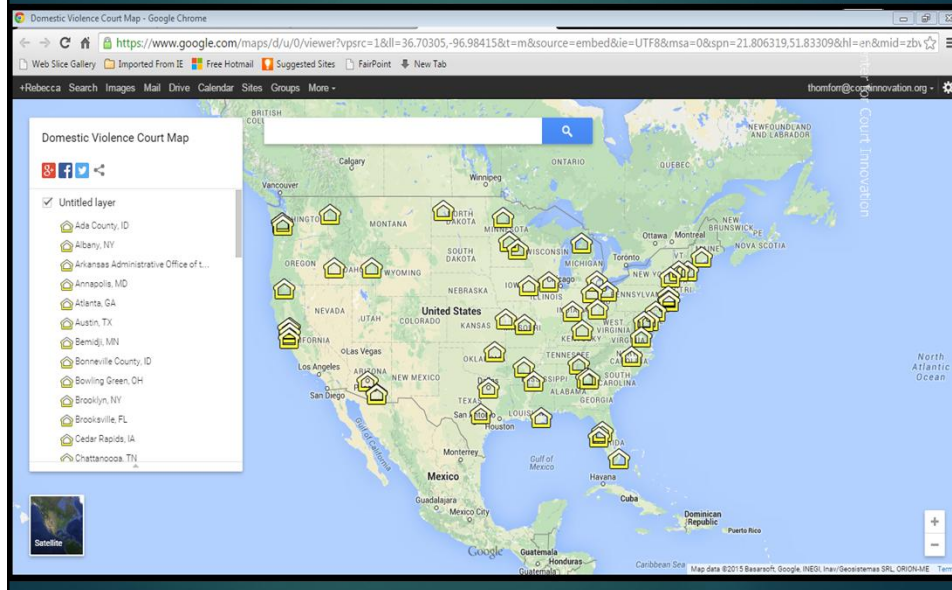




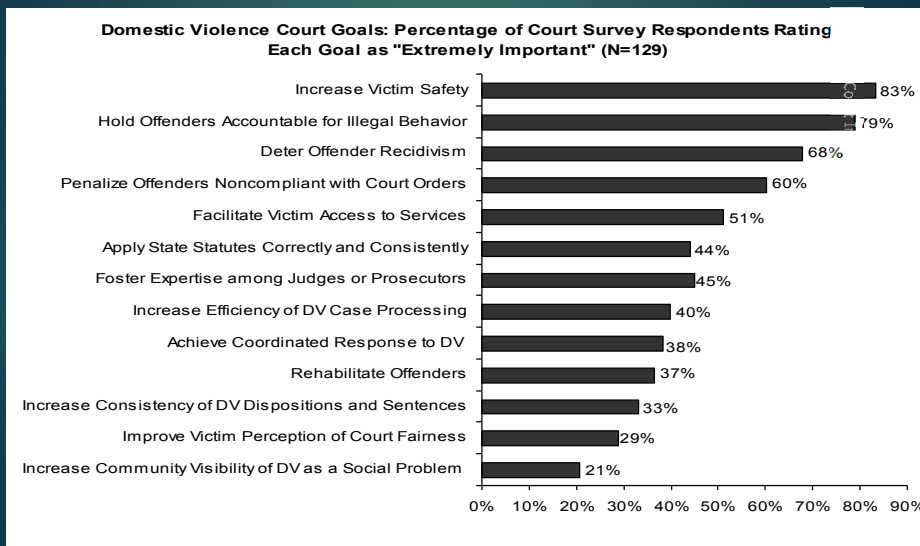
## Domestic Violence Courts Today

- ▶ Growing rapidly with approximately 200 domestic violence courts in the United States
- ▶ Represents 27 states
- ▶ Over 150 domestic violence courts internationally
- ▶ Research indicates a diversity of models, policies and practices
- ▶ Models: Integrated, Criminal (Felony and Misdemeanor), Civil, Teen, IPSA

## Justice For Families Grantees



## What are Domestic Violence Court Goals?



## Mission

- ▶ To enhance defendant accountability and victim safety by improving collaboration between community partners and reduce fractured and inconsistent responses to domestic violence and sexual assault



## Key Elements of Model

- ▶ Offender Accountability
- ▶ Victim Safety
- ▶ Informed Decision-Making
- ▶ Judicial Leadership

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## Making the most informed decisions

- ▶ Respondent/Defendant assessment and placement
- ▶ On-going monitoring
- ▶ Intensive supervision/probation
- ▶ Reports from victim advocates
- ▶ Reports from programs
- ▶ Technology systems can help

## Accountability and Victim Safety: Incorporating Evidence Based Best Practice into DV Courts

## Pillars of Evidence Based Practice

- ▶ Assessment
- ▶ Treatment
- ▶ Deterrence
- ▶ Procedural fairness
- ▶ Collaboration

## Assessment: What Risk/Need Factors Matter?

### ■ General: "Central Eight"

#### Criminogenic Factors:

1. History of criminal behavior (*STATIC*)
2. Antisocial personality
3. Criminal thinking (anti-social beliefs and attitudes)
4. Antisocial peers
5. Family or marital problems
6. School or work problems
7. Lack of pro-social leisure/recreational activities
8. Substance abuse

#### ▶ DV Specific risk factors:

- ▶ Recidivism
- ▶ Lethality

## DV Court Strategies: Assessment of Risk and Needs

### Key Implementation Considerations:

- ▶ Who are your providers and what screening tools they use to assess for general and dv risk of re-offense?
- ▶ What information can be shared and with whom?
- ▶ DV Court Compliance Calendaring
- ▶ What specific supervision and reporting does the court need that responds to risk and needs?
- ▶ How can we ensure coordination of victim services to respond to risk faced by the victim? Know who the sex offender treatment providers are and what screening tools they use to assess for sex offender offender risk of re-offense

## Evidence Based Strategy: Treatment/Programming

- ▶ Apply Risk-Need-Responsivity Principles when matching offenders to interventions
- ▶ Risk: Apply level of treatment to level of risk
- ▶ Needs: Employ treatment strategies that target multiple needs

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## Domestic Violence Court Innovations: Treatment/Programming

- ▶ Institutional Accountability
- ▶ Have BIP and other mandated program providers present information at planning meetings regarding programming so that all stakeholders are informed
- ▶ Civil and criminal referrals to BIP and to Parenting with Respect, Caring Dad's programs
- ▶ Use compliance calendaring and sanctions to leverage a sufficient program duration that responds to risk

## Deterrence

1. **Certainty** (consequence for every infraction)
  2. **Celerity** (imposed soon after the infraction)
  3. **Severity** (serious enough to be undesirable)
    - ▶ Most severe need not be the first sanction used
    - ▶ Sanctions should have credible deterrent effect
    - ▶ Escalating to truly severe sanctions should be credible
- **Implication:** Mixed/weak use of accountability also undermines reducing recidivism via deterrence

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## What do we mean by Accountability?

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## Barbara Hart's Wisdom

*Safety for Women: Monitoring Batterers' Programs*  
PCADV- Developed 1990, Revised 2004

### Accountability

Batterers, men's counselors and battered women's advocates **must be accountable to battered women** if we are to end violence against women and to do so in a manner that does not further endanger battered women and which specifically incorporates strategies that will empower battered women.

Accountability is a process by which people plan for and execute responsible conduct both individually and in interaction with significant others. An accountable person is one who periodically gives a detailed explanation of his conduct to others to whom he is responsible. **An accounting must outline strategies to assure responsible conduct and to avoid problematic conduct.** An accounting is a reckoning of behavior.

An accountable person who has acted irresponsibly or has created an unjust situation for another must compensate the person he has wronged in an effort to restore the injured party to the condition or situation prior to the wrongful action.

But accountability for wrongdoing goes beyond mere restitution. It also precludes the wronging party from repeating the injurious conduct. Therefore, accountability must include a plan to prevent a reoccurrence of this behavior. An accountable person is one who accepts those constraints voluntarily.

## Institutional Accountability



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# Accountability

Accountability is the acknowledgment and assumption of responsibility for actions, products, decisions, and **policies including the administration, governance, and implementation** within the scope of the role or employment position and encompassing the obligation to report, explain and be answerable for resulting consequences.

--Wikipedia

# Accountability: National Survey

[Groundwork for an Accountability Model](#)

- ▶ **Reporting Protocols:** Reports routinely submitted to court by virtually all batterer programs (at least 94% according to both program and court respondents nationwide)
- ▶ **Judicial Monitoring:** 62% of responding courts employ post-disposition compliance monitoring

Source: Labriola, Rempel, O'Sullivan, Frank, et al. (2007).

## Accountability: National Survey

### Problems of Accountability Implementation

- ▶ **Intensity of Judicial Monitoring:** Although 62% of courts employ judicial monitoring, only 32% hold a first compliance date within 4 weeks of disposition
- ▶ **Re-calendaring:** Only 26% of courts report re-calendaring the case within two weeks of a report of noncompliance; 63% report doing so within one month
- ▶ **Written Protocol for Responding:** Only 12% of courts report having a written protocol defining what actions to take in response to noncompliance

Source: Labriola, Rempel, O'Sullivan, Frank, et al. (2007).

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## Enforcement: California Audit

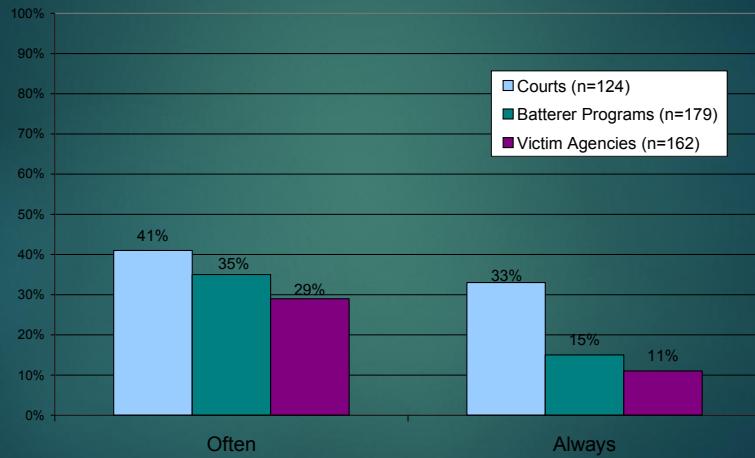
- ▶ California Law
  - ▶ Mandatory 52-week batterer program
  - ▶ Strict probation and court reporting requirements
- ▶ Audit Results (sample of 125 DV offenders)
  - ▶ Only half completed the program
  - ▶ > ¼ of completers had significant noncompliance
  - ▶ Some probation departments routinely re-referred noncompliant offenders back to programs without imposing sanctions or notifying the court:
    - “[This]...unintentionally sends the message that program violations are not serious and therefore will be tolerated.”

Source: Howle (2006).

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# Enforcement: National Survey

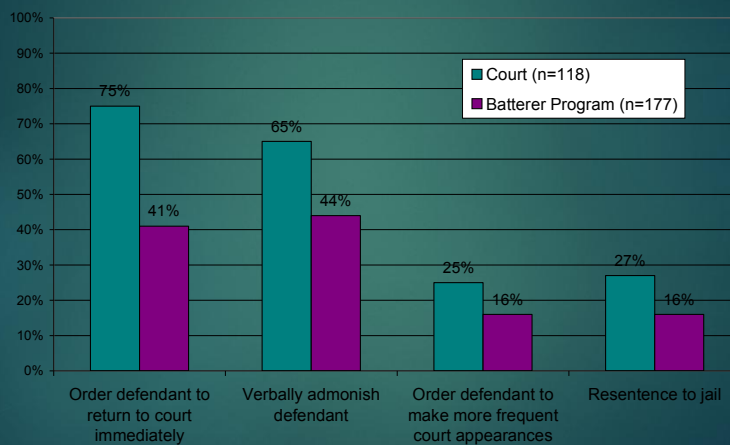
How Often Does the Court Impose Sanctions?



Source: Labriola, Rempel, O'Sullivan, Frank, et al. (2007).

# National Survey (Cont.)

Severity of the Court Response to Noncompliance:  
Percent of Courts that Use "Often" or "Always"



Source: Labriola, Rempel, O'Sullivan, Frank, et al. (2007).

## How do BIPs fit in?

Created as a response to the need to increase victim safety through enhanced accountability for domestic violence offenders, domestic violence accountability programs offer programs specifically designed to provide education about domestic violence to men who batter and to motivate domestic violence offenders to end their abuse and engage in a process of behavior change.

--VT Statewide Standards

## What other stakeholders can hold offenders accountable?

- ▶ Probation
- ▶ Other court mandated programs
- ▶ Other Courts
- ▶ Child Protective Services
- ▶ Other?

## How can the court work to hold programs accountable?

Institutions can hold each other accountable.

The court can:

- ▶ Create expectations of programs
- ▶ Resource Coordinators can observe program
- ▶ Create uniform compliance reports
- ▶ Keep statistics
- ▶ Understand program policies

## DV Court Compliance Strategies: Deterrence

- ▶ “Judge Knows It All”
- ▶ Compliance Reports
- ▶ Courtroom Theater: scheduling of compliance calendar
- ▶ Who is in the courtroom?
- ▶ Creative Sanctioning to respond to the individual offender
- ▶ DV probation conditions
- ▶ Court technology to share compliance information

## Procedural Fairness

- Establish fair and consistence procedures and treat offenders respectfully
- Research shows that procedural fairness increases offender compliance with court orders
- Litigants in order of protection hearings who had unfavorable outcomes in court:
  - If they thought the process was fair →  
More likely to say they would comply with court order

<http://www.proceduralfairness.org/~media/Microsites/Files/procedural-fairness/Tyler.ashx>

[http://www.mncourts.gov/Documents/4/Public/Research/Family\\_Court\\_Fairness\\_Report\\_Final\\_%282004%29.pdf](http://www.mncourts.gov/Documents/4/Public/Research/Family_Court_Fairness_Report_Final_%282004%29.pdf)

## Domestic Court Innovations: Procedural Justice

- ▶ Judicial Demeanor
- ▶ Full understanding of the case/ defendant
- ▶ Defendant offered opportunity to be heard
- ▶ Courtroom environment
- ▶ Victim Input/Procedures
- ▶ Allocution
- ▶ Consistency

## Collaboration

- ▶ Obtain the buy-in and participation of multiple criminal justice agencies
- ▶ Research shows better implementation outcomes if line-staff buy in to the court
- ▶ Evaluation of programs for drug-addicted defendants found reduced recidivism when multi-disciplinary teams were involved in the planning of the program

— Cissner, A.B. and Farole, D.J. (2009). Avoiding Failures of Implementation: Lessons from Process Evaluations and Carey, S.M., Macklin, J.R., and Finigan, M.W. (2012). What Works? The Ten Key Components of Drug Court: Research-Based Best Practices

## Domestic Violence Court Innovations: Collaboration

- ▶ Coordination of victim services
- ▶ Multi-disciplinary planning team
- ▶ Inter-court collaboration
- ▶ Planning meetings hosted by various team members
- ▶ On-going training and stakeholder meetings
- ▶ Safety Audit (Praxis) and DV Court Tool Kit (Center for Court Innovation)

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# Focus on Victim Safety

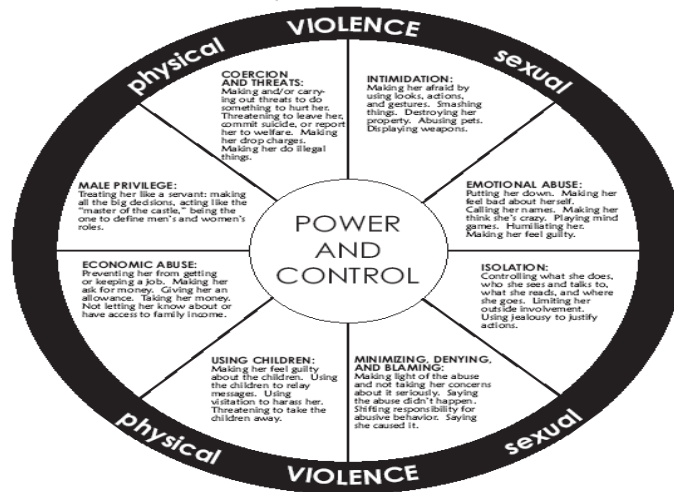
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- ▶ Protective orders
- ▶ Coordinate with Victim Services
- ▶ Focus on Sexual Assault
- ▶ Evidence collection
- ▶ GPS
- ▶ Child/Spousal Support

## POWER AND CONTROL WHEEL

Physical and sexual assaults, or threats to commit them, are the most apparent forms of domestic violence and are usually the actions that allow others to become aware of the problem. However, regular use of other abusive behaviors by the batterer, when reinforced by one or more acts of physical violence, make up a larger system of abuse. Although physical assaults may occur only once or occasionally, they instill threat of future violent attacks and allow the abuser to take control of the woman's life and circumstances.

The Power & Control diagram is a particularly helpful tool in understanding the overall pattern of abusive and violent behaviors, which are used by a batterer to establish and maintain control over his partner. Very often, one or more violent incidents are accompanied by an array of these other types of abuse. They are less easily identified, yet firmly establish a pattern of intimidation and control in the relationship.



Developed by:  
Domestic Abuse Intervention Project  
200 East Superior Street  
Duluth, MN 55802  
218.722.4134

Produced and distributed by:

**NATIONAL CENTER**  
on Domestic and Sexual Violence  
4412 Ross Street, Austin, Texas 78759  
512.497.9939 (toll-free and fax) • www.ndcv.org



## Responding to Intimidation

- ▶ Provide a safe waiting area for complainants to minimize contact with defendants
- ▶ Monitor defendants for any intimidating behavior in the courtroom (inc. nonverbal) → put on the record
- ▶ Encourage DV training for ALL staff, including security personnel
- ▶ Seek sanctions for violations of OPs, including stalking, phone calls & sending messages through children

## Responding to Minimization, Denial & Victim Blaming

- ▶ Address alcohol/drug abuse as a co-existing problem but not the *cause* of abuse
- ▶ Emphasize defendants' sole responsibility for their criminal behavior even if victim disengages
- ▶ Ask for a detailed allocution
  - ▶ Review the charges & ask the defendant to give specifics of crimes committed
- ▶ Establish a reporting system with mandated programs & Probation
- ▶ Risk Assessment

## Responding to Abuse of Children

- ▶ Know whether the victim has children with the complainant
- ▶ Communicate with Family Court re: cases for custody and/or visitation
- ▶ Inquire about whether children were present during the incident → educate all about impact of DV on children
- ▶ Include children & their schools on OPs as needed

## Responding to Economic Abuse

- ▶ Connect victim to child support order
- ▶ Order restitution for property damage, counseling or medical costs of the victim
- ▶ Refer victims to advocates for assistance:
  - ▶ housing & shelter
  - ▶ public benefits
  - ▶ financial support

## Responding to Coercion & Threats

- ▶ Ask about & seek removal of weapons
- ▶ Monitor defendants' compliance with court orders, including OPs
- ▶ Communicate with other courts to prevent inconsistent orders
- ▶ Prioritize victims' safety throughout the court process

## Themes and Lessons Learned

- ▶ Community collaboration
- ▶ Institutional Accountability—holding each other accountable
- ▶ Involve victim advocates/centers in planning
- ▶ Risk, Needs, Responsivity Factors are important
- ▶ Court/Judge as leader

## What Courts need to know

- ▶ Who are the experts on batterer accountability in your community?
- ▶ Who are the experts on safety planning and victim advocacy?
- ▶ How is each agency working to hold offenders accountable and enhance victim safety?
- ▶ Where is there conflict between the two?
- ▶ How can you work more collaboratively with these agencies to hold offenders accountable?

## Judicial Leadership

- ▶ Court can't do it alone
- ▶ Stakeholder Meetings
- ▶ Provide links to services
- ▶ Work with programs
  - ▶ Hold agencies and programs accountable
  - ▶ Back-up agencies and programs

## We Can Do Better

*“At the Domestic Violence Court, I feel like I am doing meaningful work every day.”*

*Hon. John Leventhal, Brooklyn DV Court*

Thanks!

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Rebecca Thomforde Hauser  
[thomferr@courtinnovation.org](mailto:thomferr@courtinnovation.org)



**Day 3 conference  
begins at 8:15 am**



**THANK YOU  
AND  
GOODNIGHT**