

## **DOMESTIC VIOLENCE INTERVENTION SYSTEM: A MODEL FOR RESPONSE TO WOMAN ABUSE**

**By Barbara J. Hart, Esq.**

In the last fifteen years the citizens of Pennsylvania have begun to recognize the terrible toll that domestic violence has taken upon women and children in our communities and families. We have heard the voices of battered women, describing the indifference of our justice system to their plight. And we are now responding -- "No more!" To achieve an end to violence against women in intimate relationships, those of us who serve in the justice system and those of us who have survived domestic violence have joined together to make social change -- transforming our institutions to put an end to cultural supports for woman abuse and creating communities which are intolerant of domestic violence and which safeguard victims.

While many communities in Pennsylvania have made exemplary, preliminary changes in a number of the relevant components of the justice system, the Pennsylvania Coalition Against Domestic Violence has not identified a jurisdiction which has totally coordinated its institutions to safeguard victims and to stop domestic violence. Research and common sense persuade us that a justice system which is fully operational -- where each component has a specific protocol on domestic violence intervention and a process for consistent implementation of that protocol -- best safeguards victims and calls perpetrators to account. We are hopeful that many communities will expand their efforts in the coming year to implement comprehensive policies for intervention in domestic violence. To facilitate these efforts, we offer the following description of a model **Domestic Violence Intervention System**, which includes information on effective law enforcement, victim/witness services, prosecution, legal advocacy, judicial practice, and probation and parole activities.

### **LAW ENFORCEMENT.**

Perhaps it seems impolitic to suggest that this first component of a comprehensive domestic violence intervention system may be more critical than others, but since law enforcement is the sector which serves as the gatekeeper for the rest of the system and is the entry point for a substantial number of victims and perpetrators, the critical role of law enforcement must be highlighted. From the dispatcher to the Chief, the actions of law enforcement are pivotal to victim safety and perpetrator accountability.

**Arrest deterrence.** Research reveals that arrest is the most effective response of law enforcement to domestic violence. The leading research in the field demonstrates that where police arrest perpetrators of domestic violence rather than separating the couple or mediating between the victim and offender, the arrested perpetrators are significantly less likely to recidivate within six months than those offenders with whom the police take conciliatory action. Arrest more effectively deters perpetrators than any other law enforcement action, even if a case does not result in conviction. (Ford, 1990; Sherman and Berk, 1984) Further, victims of domestic violence who call the police appear to be less likely to be assaulted again by their partners than those who did not. There is no evidence that subsequent domestic violence crimes became more serious as a result of communication with the police. Thus, police intervention has a significant deterrent impact on domestic violence. (Sherman and Berk, 1984) Experience also shows that officer safety is enhanced when responding officers approach a domestic violence crime scene with a preferred arrest perspective and when the decision to arrest or not is made quickly. (Pence, 1989)

**Arrest policy.\*** Each police department from the smallest, part-time force through the largest metropolitan department should adopt a domestic violence arrest policy. A policy should either strongly encourage or mandate arrest of domestic violence perpetrators. Each police officer needs to know the philosophy of the department on domestic violence. Even more important is the procedural delineation of responsibilities and authority. While no policy is self-effectuating, that which is detailed, broadly

disseminated, and conspicuously endorsed by management is the policy that provides clear guidance for law enforcement response. Carefully drafted directives on interviewing the parties, assessing probable cause, and effecting arrest can greatly facilitate effective practice by responding officers.

**Dispatcher priorities and practice.** Whether dispatch priorities are assigned by a computer or set at the discretion of the dispatcher, high priority should be given to domestic violence calls. (The California legislature recently mandated that dispatchers assign domestic violence calls a high response priority.) Domestic violence injures and kills more women in this country each year than muggings, rapes, and stranger assaults. Between 31 and 50% of all female homicide victims are killed by their partners. (F.B.I. 1980-89; Browne and Williams, 1987)

Dispatchers should gather as much information as possible about the domestic violence incident and should communicate this to the responding officers. Dispatchers should check the Domestic Violence Risk File to see if there have been prior calls related to the alleged perpetrator, victim, and/or address. (See below.) The dispatcher should, likewise, check the Protection Order Registry to see if there is a current protection order. This information should be communicated to the responding officers.

**Domestic Violence Risk File and Protection Order Registry.** Each department should implement both data bases. The Domestic Violence Risk File should contain information about law enforcement response to domestic violence incidents catalogued by perpetrator, victim and address. It will be helpful to a responding officer to have a cursory history of domestic violence, including perpetrator use of weapons, injuries to victims, and assaults on police officers. Since the severity of domestic violence appears to escalate over time, the responding officer will be better equipped to safely intervene when apprised of the pattern of perpetrator violence. Risk File data should be retained indefinitely.

Valuable information can also be gleaned from any protection order entered in the Protection Order Registry. The presence of an outstanding protection order suggests heightened danger to the victim and officer, and may provide law enforcement with additional authority for arrest.

**Domestic Violence Incident Report.** Each officer that responds to a domestic violence call should complete a detailed incident report. If an officer decides not to arrest an alleged perpetrator, he/she should specifically articulate reasons for deciding not to effect an arrest.

A copy of every Domestic Violence Incident Report should be furnished both to the prosecutor and the local domestic violence program for outreach and advocacy with victims. Incident reports should be preserved for at least 7 years.

**Weapons Seizure.** The responding officer has broad authority to seize weapons used or threatened to be used in domestic violence crimes in Pennsylvania. Specifically, in the Crimes Code § 2711, an arresting police officer is required to seize all weapons used by the alleged perpetrator in the commission of the offense. Further, when a responding officer concludes that a perpetrator has violated a civil protection order and arrests the defendant, the officer is again mandated to seize all weapons used or threatened to be used during the violation of the protection order *and* during prior incidents of abuse. When the weapons are seized pursuant to violation of a protection order, the arresting officer is charged with delivering the confiscated weapons to the office of the sheriff who must maintain possession of the weapons until the court issues an order directing that the weapons be relinquished and identifying the persons to whom the weapons can be released. Many departments authorize responding officers to remove all weapons perceived to pose a danger to the victim with either the permission of the alleged perpetrator or the spouse. Research reveals that firearms are used in more than 60% of spousal or partner homicides. Handguns account for almost 80% of these firearms. Even temporary removal of weapons serves to prevent life-endangering assaults, especially at times of escalated confrontation. (Saltzman et al, 1990)

**Victim's Rights Notification.** The responding officer should advise the victim of legal rights she may have, including a civil protection order, a restraining order against victim intimidation, and crime victim's compensation. The victim should also be given a referral to the local domestic violence program and advised of shelter and victim advocacy services. The victim should be given a free copy of the Domestic Violence Incident Report and apprised that copies will be sent to the local domestic violence program and the prosecutor.

**Transportation.** The responding officer should provide or arrange transportation for the battered woman or children to medical facilities or emergency shelters if the victim requires such services.

**Comprehensive criminal charges.** The responding officer should charge the alleged perpetrator with all of the crimes entailed in the domestic violence incident. Historically, there has been a tendency to classify domestic violence crimes as misdemeanors rather than felonies despite the presence of weapons and extensive injuries to victims. (Langan and Innes, 1986) Care should be taken not to minimize the gravity of domestic violence offenses.

**Arraignment advocacy.** Experience demonstrates that domestic perpetrators pose a more serious continuing threat of violence to victims during the pendency of charges than do stranger perpetrators. Nonetheless, most domestic violence perpetrators are released on their own recognizance without any special conditions imposed on bail to afford victim safety. Officers present at arraignment should advise the court of the danger they believe the defendant may pose to the victim and suggest conditions of bail that will enhance victim safety. Requests for cash bail should be considered.

**Mental health assessment.** Research reveals that as many as 1/3 of the men committed to mental health institutions because of depression have homicidal fantasies focused largely on their partners and family members. (Rosenbaum & O'Leary, 1979) Furthermore, about 1/3 of the men who kill their woman partners, then commit suicide; suggesting that suicidal ideation by a batterer is a high risk-marker for partner homicide. (Johnson, 1987) However, the mental health community appears resistant to any recognition that mental illness may aggravate domestic violence. Family violence perpetrators are less likely to be admitted to mental health services than non-family perpetrators. (Gondolf et al, 1989) Therefore, law enforcement should carefully evaluate the mental health crisis of any domestic violence perpetrator and takes steps to assure victim safety. The propriety of an emergency mental health commitment should be considered if an arrest is not effected.

**Follow-up.** Each law enforcement agency should have a system for follow-up with victims to advise them of the charges approved, any bail conditions set, the release of the perpetrator from custody, and the availability of victim advocacy services. During follow-up, an evaluation should be made about victim safety and officers should encourage victims to engage in dangerousness assessment and safety planning with the assistance of the local domestic violence program. (See page 103.)

**Training.** Recruits and veterans need regular training on domestic violence with input from domestic violence programs. This should include at least an overview of domestic violence with an emphasis on its impact on women and children, as well as clear articulation of the parameters of probable cause, use of force, authority to pursue, weapons confiscation, officer safety, relevant civil and criminal law, and victim services. (Pence, 1989; VSA, 1988)

**Community education.** In community education and public relations materials, each law enforcement department should address domestic violence and child abuse.

**Hostage-negotiation plan.** National data informs us that between 75-90% of hostage-taking in this

country is an outgrowth of domestic violence. Law enforcement agencies should develop specific plans for intervention in domestic hostage situations. Since batterers may take hostages at a domestic violence program, a system for coordinated efforts between law enforcement and the shelter should be implemented.

**Disciplinary action and employee assistance programs.** Police officers are also perpetrators of domestic violence. Safety of the public, as well as the victim, is jeopardized by officers who use violence in intimate relationships. Each department should have a procedure for response to domestic violence calls involving officer perpetrators. A system for corrective counseling and disciplinary action with officers who batter their partners and children must be implemented. The victim, a supervisor (pursuant to a domestic violence incident report of an investigating or arresting officer), or the battering officer should be able to initiate disciplinary action or corrective counseling related to domestic violence. A supervisor should notify the victim of any action contemplated so that she can make appropriate safety plans. Employee assistance programs should be put in place to afford perpetrating officers the opportunity of specialized rehabilitation services and to support victimized officers in achieving safety from abuse.

### **VICTIM-WITNESS ADVOCACY.**

Although many believe that victims of domestic violence are less likely to follow-through with prosecution than are victims of serious stranger violence, experience demonstrates that when there is a system of support for domestic violence victims, many are committed to the successful prosecution of batterers as long as this can be achieved in the context of victim safety.

**Victim notification.** Victims of domestic violence must be instructed as to the role of the victim in the criminal justice process and the stages of criminal prosecution, as well as the right to be present and heard at all crucial stages to the extent that this right does not interfere with the constitutional rights of the accused.

Each victim of domestic violence should be notified promptly about any changes in scheduling which may affect her appearance at trial or post-conviction proceedings.

The domestic violence victim also needs to be apprised of the defendant's status from arrest through parole. She needs to be informed of the arrest, bail conditions, and charges lodged against the defendant. She should be advised of the release of the defendant from imprisonment on bail and for furloughs, emergency leave, work-release, escape, or discharge.

**Employer and creditor intercession.** The victim-witness program should offer to intercede with employers in order to minimize the victim-employee's loss of employment, pay and other benefits while participating in prosecution. Likewise, when domestic violence subjects the victim to serious financial strain, the victim witness program should offer to advocate with creditors for consideration in management of the victim's financial obligations.

**Victim assistance.** The victim of domestic violence must be assisted in preparing any statements to be made at sentencing or at hearings concerning probation, pre-release plans or parole. The victim-witness program should apprise domestic violence survivors of the right to restitution as a condition of probation or parole. The program should assist victims of domestic violence in developing a comprehensive statement of losses resulting from the crime(s) of domestic violence. Restitution claims may be made for any costs resulting from the crime, such as lost wages; expenses for relocation of residence; childcare and transportation costs associated with prosecution; medical, counseling and other treatment fees; replacement costs of any destroyed property; and shelter or advocacy costs.

**Crime victim compensation advocacy.** As of October 1, 1990, victims of domestic violence may not be denied crime victim compensation for losses sustained as a result of crimes committed by their spouses/partners, unless the compensation would substantially inure to the benefit of the perpetrator.

Although federal regulations compel compensation to victims of domestic violence, awards may still be difficult to achieve because of several legal hurdles that domestic violence victims must overcome. Therefore, careful monitoring of these applications and the bases for denial of awards must be made by victim-witness programs to assure just compensation of battered women and children.

**Victim protections.** Victim witness programs must make sure that victims can participate safely in the prosecution of perpetrators. This means that victim witness programs must advocate for weapons searches of domestic violence perpetrators at all legal proceedings, safe waiting rooms for victims, modification of bail conditions, and the imposition of protective orders against victim intimidation.

### **PROSECUTION.**

As law enforcement adopts policies encouraging or requiring officers to arrest suspects in domestic violence incidents, there is a substantial increase in the number of domestic violence cases submitted for prosecution. To expedite the handling of these cases, changes in district attorney policy and practice are essential.

**Specialization.** District attorneys should establish domestic violence units in large offices or create specialists in smaller offices in order to permit vertical prosecution and the enhancement of expertise on domestic violence cases. Specialization has improved the success of prosecution. (Fagan, J., 1988)

**Appropriate charging.** Domestic victims are entitled to the same quality of justice as victims of stranger violence. Historically, prosecutors have been reluctant to charge alleged perpetrators of domestic violence with felonies. District attorneys have often utilized evidentiary standards that are higher in domestics. Not only is this disparity unwarranted, it is counterproductive. Domestic assailants are acutely dangerous. Therefore, efforts must be made to eliminate discrepant practice in charging crimes of domestic violence.

**Outreach efforts.** The prosecutor should review the Domestic Violence Incident Reports submitted by law enforcement in cases which do not result in arrest. Where the prosecutor concludes that prosecution is, nonetheless, warranted, he/she should attempt to contact the victim and consult about prosecution. Charges may thereafter be filed by the prosecutor or the victim.

**Preliminary hearing prosecution.** Unless law enforcement has agreed to bear the burden of prosecution at the preliminary hearing, it is critical that a deputy district attorney appear at preliminary hearings in domestic violence misdemeanor and felony cases. In many jurisdictions, the prosecutor leaves it to the victim to persuade the court that the elements of the crime charged have been committed and that the defendant is the perpetrator of these crimes. Battered women have neither knowledge of the evidentiary requirements nor of methods for producing evidence at preliminary hearings. Furthermore, even if a victim had the knowledge and skills, her fear of the batterer and the situation may be so acute that she cannot successfully prosecute the case. Prosecution will likely fail at this juncture unless the state's case is asserted by the district attorney.

**Investigation.** Battered women almost all claim that district attorneys never vigorously investigate their cases. The strong empirical evidence of the chronic, escalating nature of domestic violence and its acute danger to victims compels a reordering of priorities and resources to improve the prosecution of domestic violence perpetrators. (Fagan, 1988)

**Victim protection.** Where victims are besieged by defendants with pleas or threats to withdraw the prosecution, prosecutors must provide victim-witnesses with protection both to assure the safety of the victim and to expedite prosecution. In Pennsylvania, the district attorney can seek a temporary protective order on behalf of victims to direct defendants to cease and desist from any conduct which would intimidate the victim or any witness and interfere with the victim's participation in prosecution. (See 18 Pa.C.S. §4954.)

Besides temporary protective orders, the district attorney can enlist law enforcement in victim protection strategies. Victims of domestic violence should also be eligible for witness protection programs when it is apparent that their lives may be in danger as a consequence of prosecution.

**Property return procedures.** Law enforcement agencies and the district attorney should promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Requests should be made of the trial court for appropriate orders to expedite the return of property to victims, including permission for photographs of the victim's property to be used as evidence at trial when no substantial evidentiary issue related thereto is in dispute. However, weapons are best held until final disposition of the criminal case.

**Victim consultation.** The prosecutor should develop guidelines for reasonable consultation with the victim advocate and/or the victim prior to entering into any plea bargain or dismissing a case.

**Victim testimony.** Sometimes, even in jurisdictions where prosecutors engage in all of the above, victims are reluctant to testify. In many jurisdictions, prosecutors have developed policies whereby they subpoena victims to testify on trial dates. However, where the victim persists in resistance to testify, the practice is to proceed to prosecute without victim testimony wherever possible. These policies specify that victims are not to be penalized or prosecuted for failure to testify.

**Diversion programs.** The use of diversion as an alternative to prosecution should be carefully evaluated. Many in the justice system believe that pre-trial diversion is always inappropriate in domestic violence crimes. Others assert that diversion should only be available to first offense batterers charged with misdemeanors other than involuntary manslaughter. If diversion of domestic violence perpetrators is instituted, domestic violence defendants should not be eligible when victims object to this disposition. Diversion programs should be specifically tailored to assure victim safety and stop the violence.

Participants in diversion programs should be compelled to attend educational programs on domestic violence. Restitution should be paid during the period of diversion. Breach of the conditions of the diversion program should result in termination of the program and immediate prosecution.

**Self-defense protocol.** When perpetrators of domestic violence are not deterred from continuing violence against their wives/partners, the brutality of their violence often escalates to life-threatening proportions. (Browne, 1987) National research over the past 30 years has shown that when women use lethal violence against their partners, it is almost always to protect themselves or their children. (Browne and Williams, 1987; Cazenave and Zahn, 1986) Further, in the last 10 years women have killed their partners less, particularly in those states where comprehensive legal protections and social services are available. (Browne and Williams, 1987) Pennsylvania is one such state. Men, on the other hand, have been killing wives/partners in ever increasing numbers, especially after separation and divorce. (Browne and Williams, 1987)

Therefore, prosecutors knowledgeable about domestic violence should carefully design a protocol for investigation and charging in situations where women who have been the victims of domestic violence kill batterers. Where battered women have killed to protect themselves and prosecution does not clearly

serve the interests of justice, discretion should be exercised against prosecution and the consequent re-victimization of battered women by the legal system.

### **LEGAL ADVOCACY.**

Victim advocacy is a key component in the Domestic Violence Intervention System. Battered women who find themselves abruptly thrust into the legal system because of the violence of their partners, while often simultaneously seeking emergency shelter to protect themselves and their children, are swamped with new information and the demands for family management in these acute crisis situations. Many people who are not terrorized by violence would find it difficult to address all of the issues impinging upon a battered women dislocated and endangered by violence. (Campbell, 1990) It is not surprising that victims may appear less invested in successful prosecution than law enforcement and prosecutors. Therefore, it is critical that advocates are available to battered women to help them understand legal process and to develop effective strategies for participation in the justice system. Legal advocacy for battered women includes:

**Outreach.** When a battered woman has entered the legal arena, whether pursuant to police action or by her own initiation, her safety will be enhanced by discreet outreach and advocacy. Since many battered women do not know about domestic violence services, are not acquainted with the particular activities of legal advocacy, or believe that they are ineligible for services, domestic violence programs have begun to engage in outreach to battered women to provide legal advocacy.

**Safety planning.** Each battered woman needs to construct a safety plan. Although victims are certainly competent to design plans independently of advocates, experience often lends substantial enrichment to any plan. Safety planning is an on-going process. Batterers continue to pose risks potentially forever and certainly until they believe the consequences of their violence outweigh the benefits.

**Options counseling.** Victim advocacy includes informing battered women of the array of legal options and the procedures for exercising those options. Victim advocacy does not include giving legal advice. Battered women are referred to the prosecutor, legal services attorneys and the private bar for substantive legal advice.

**Case investigation/preparation.** Law enforcement and the district attorney are sometimes not able to devote the time and energy needed to comprehensively develop the evidence in criminal matters. The same is true for the private sector in civil matters. Therefore, it is very helpful for battered women to gather information and provide these justice system actors with a detailed chronology of events and circumstances.

**Court accompaniment.** Court appearances are dangerous and terribly frightening experiences for battered women. Desperate batterers may assault battered women at the courthouse. This has happened all too often. Court accompaniment by informed advocates serves to enhance the victim's physical safety, to provide emotional support, and to afford back-up consultation to justice system personnel, when necessary.

**Systems advocacy.** Where there are inadequacies in any component of the legal system, systems advocacy may be necessary. For example, if statutory law is basically deficient on a point, advocates may draft and urge the adoption of legislation. If a prosecutor does not have the resources to provide assistant district attorneys at preliminary hearings, the victim advocate may expose the inadequate level of funding of the district attorney's office and urge local government to increase resources. Where a judge continues to place batterers in diversion programs when they have histories of criminal violence, the advocate may be able to persuade the bench to adopt local rules to eliminate this practice. If crime victim's compensation is not awarded promptly, advocates can seek administrative change to expedite awards.

Without systems advocacy the problems of the legal system may cause such discouragement of victims and resentment in other intervention system components that the system will fail. Systems advocacy is essential to improve justice system response to battered women.

### **JUDICIAL PARTICIPATION.**

The judiciary plays a crucial role in a Domestic Violence Intervention System.\* Judicial recognition of the gravity of domestic violence sends a clear and compelling message to the perpetrator, the public and to other actors in the justice system. (Goolkasian, 1986)

*"The judge told him, in no uncertain terms, that the law doesn't allow him to assault me just because I'm his wife. He said that he'll send him to jail if he's brought back for another offense. Right here in the courtroom... you should have seen the look on his face. I think he knew the judge wasn't kidding, and that's when he decided to do something about it."*

*-- a formerly battered woman (Goolkasian, 1986, pg. 1)*

When the bench is serious about domestic violence, the rest of the justice system cooperates.

### **Criminal matters**

**Pre-trial restrictions/requirements/recommendations.** District justices and judges, recognizing the danger to battered women throughout the pre-trial period, during which time batterers routinely harass and threaten victims for cooperation with prosecution or retaliate with life-threatening violence, are fashioning conditions on release to safeguard the victim and compel the lawful behavior of defendants prior to trial. One important method of victim protection is limiting the defendant's access to the victim either through bail conditions or "no-contact" orders. District justices and judges should terminate the practice of releasing defendants on their own recognizance in domestic cases where they would require cash bail of perpetrators of stranger violence. Arraigning judges should require the appearance of the defendant at arraignment in those jurisdictions where an appearance might otherwise be excused; the appearance will serve as a reminder of the potential consequences of future violence and may, therefore, deter pre-trial violence directed at the victim. The most effective method of victim protection is pre-trial detention which should be imposed for specific felonies and for violations of conditions on bail, of victim intimidation §4954 orders, or of civil protection orders.

Some batterers are receptive to judicial referrals to drug and alcohol or batterer treatment programs during the pre-trial phase when participation is recommended by the court. However, batterers sometimes enter a treatment program in order to gain leniency at sentencing in the event that they are convicted.

**Expert testimony.** The general public, including jurors, harbor many misconceptions about domestic violence, and this information shapes their participation on the jury. In order to fairly weigh the evidence presented to them, jurors must be educated about the false notions which they hold as truth. Expert testimony can describe the dynamics of domestic violence and the complexities of that experience so that the jurors have the opportunity of informing their deliberations with data acquired through scientific inquiry.

Often the defense strategy in domestic violence cases is to challenge the credibility of the victim-witness by asking -- "If he was so dangerous and she was so afraid, why didn't she leave?" Even when instructed by the court that the question is not relevant and must not be considered, jurors report that it is often a pivotal question. An expert can address the question of the consistency between abject terror and remaining with the batterer. For example, they could describe the phenomenon of "separation violence" and its increased potential for lethality; thus, demonstrating it may be reasonable for a battered woman to conclude that it may sometimes be more dangerous to leave or to appear to be leaving than it is to stay and accommodate the batterer. (Mahoney, 1990; Ellis, 1987)

**Sentencing.** Judges have been reluctant to incarcerate batterers. Men who injure and terrorize their families have not been recognized as engaging in criminal conduct nor have they been viewed as

dangerous. Despite irrefutable data to the contrary, they have not been identified as recidivists. Further, with jail overcrowding, cells have been saved for offenders committing stranger violence and property crimes. (Fagan, 1988) Batterers commit upwards of 50% of all female homicides. Seventy percent of the serious child abuse is committed by fathers or father surrogates, as is 80% of child homicides. (Bergman et al, 1986) Violence unchecked, escalates in severity. (Browne and Williams, 1987)

Sentencing should be carefully tailored to enhance victim protection. If the foremost goal of an intervention system is to protect victims, then incarceration ought to be utilized. It is the best method for denying a perpetrator access to a victim and deterring his violence. It must be acknowledged that there has been no research undertaken on the efficacy of shock detention or protracted incarceration as deterrence to recidivism of batterers. However, investigation of the merits of incarceration coupled with treatment could be undertaken by the Courts of Common Pleas in the Commonwealth.\* There is no reason that batterers should be exempt from incarceration, and there may be value in short-term incarceration for some.

If a batterer is addicted to alcohol or other drugs, he will need to complete detox and inpatient treatment before he is capable of consistent non-violence. Drug and alcohol treatment for batterers should be built into conditions on probation or parole.

Restitution to victims is often neglected. Courts should award generous restitution to victims and should institute systems to assure prompt collection and distribution. (See **Victim-Witness Advocacy** above, for a delineation of potential victim restoration through restitution.)

Community service might be also be an element in a comprehensive sentence. Since most batterers represent little risk to anyone other than their family members, service at a homeless shelter, at a food bank, at the children's home, on recycling projects, on landscaping crews, at youth athletic leagues, at nursing homes, etc. might provide the batterer with a reminder of the importance of refraining from his violence and perhaps even provide him with motivation for change. It should be noted that this list does not include community service to the domestic violence program. Any community service to assist programs for battered women and children should be tailored to protect the safety and confidentiality of recipients. Community service programs should be designed in consultation with the local domestic violence program. There may be work that a domestic violence program would like to undertake through community service, but often the risks outweigh the benefits.

Finally, sentencing should expose the batterer to regular and consistent monitoring by probation or parole staff. Experience across the country has demonstrated that batterers who must report regularly, often weekly, to a probation or parole agent are less likely to recidivate during a period of probation or parole than those who are under minimal scrutiny. Thus, a system for regular reporting and monitoring should be imposed. (Pence, 1985)

### **Protection from abuse orders**

**Comprehensive relief.** The Protection From Abuse Act was drafted to afford victims of domestic violence the critical relief needed to escape the physical assaults and terrorism inflicted by batterers. Commonwealth legislators recognized that it was not merely enough to enjoin the perpetrator from further abuse. Batterers should be denied access to family and household members that they abuse. Eviction of the perpetrator from the family home, prohibitions against communication with the victim, provisions limiting the batterer's geographical mobility, awards of temporary custody and support, all were incorporated to minimize batterer access. Each of these access limitations is a compliment to the other and is an essential component of a protection plan authorized by the court. With all of these carefully incorporated in protection orders, the batterer has virtually no legitimate reason for communicating with or contacting the battered woman. These provisions provide victims the best protection. (Ellis, 1987)

The Protection From Abuse Act further authorizes courts to protect victims from batterer access. It specifically directs courts not to disclose the address of domestic violence programs or of victims. When battered women apprehend that their husband/partner is desperate and may be contemplating homicide, they often seek to keep the location of their residence confidential. Courts of Common Pleas can direct that court personnel, law enforcement and school districts not disclose the address of the battered woman or children to any third party. If this confidentiality is maintained, battered women will have some additional relief against batterer access.

Post-separation violence -- that which is potentially the most life-threatening -- routinely occurs when perpetrators are exercising visitation rights. Protective measures to avert this violence can include temporary suspension of visitation, protected exchanges of children, or professionally supervised visitation.

Protection orders should not be entered against the victim/plaintiff absent a cross-petition filed by the alleged batterer, with timely service made upon the plaintiff, and a finding that the victim/plaintiff has committed acts of abuse upon the defendant. Mutual orders, restraining both parties, are virtually unenforceable and thus leave those vulnerable to abuse unprotected.

Finally, protection orders should never include language directing the plaintiff not to "entice or invite" the defendant to violate the protection order. The decision to abuse (and the decision to disobey a court order) is one exclusively made by the abuser. The victim can neither make the batterer cease or commence violence. The batterer is solely responsible for his actions. Any provision in a protection order to the contrary provides a batterer with excuses and rationale for continued violation of family members.

**Instructions on enforcement.** Research reveals that protection orders work best in jurisdictions where police consistently enforce protection orders and arrest for violations. (Finn & Colson, 1990) In many jurisdictions it has been useful to include specific directions to police in protection orders that they arrest a batterer upon a determination that probable cause exists to believe he/she has violated a protection order and/or committed other substantive crimes. While the authority and mandate for arrest may be in statutes, law enforcement seems to respond more uniformly to specific directions from the judiciary to enforce protection orders. Beyond this, specific instructions notify batterers of the ramifications of violation of protection orders. When consequences are certain and swift, batterers maintain better compliance with protection orders. (Pence, 1985)

### **PROBATION AND PAROLE.**

The role of probation and parole offices in a domestic violence intervention system has yet to be fully realized. The probation or parole officer is the person in the intervention system who may have the greatest number of contacts with the batterer for the longest time period. Therefore, it is critical that probation and parole personnel are unequivocal in their intolerance for domestic violence crimes and in support of victim safety. Work undertaken by probation and parole offices might include:

**Domestic violence assessment.** Since the mandate of the probation and parole office is to help those on their caseload to avoid any violation of probation or parole, every participant should be assessed for a history of domestic violence. Those probationers or parolees who use domestic violence are likely to be program failures. Those who are victims may experience obstacles to successful participation because of domestic violence. Therefore, a history of domestic violence should be explored.

**Sentencing investigation.** When the presenting conviction is for a domestic violence crime, sentencing investigation should gather the information about the history of domestic violence. This can probably best be acquired from the victim. Screening should also obtain information from the police or the victim regarding aggravating circumstances, including the frequency and pattern of domestic violence, any

criminal record for either stranger or domestic violence, injuries sustained by this or other victims, and threats directed against victims during the pendency of prosecution. During the investigation phase, the victim impact statement should be completed and the pre-sentence investigator should explore the propriety of imposing various conditions on probation or parole to enhance victim safety. These might include excluding the offender from the marital or partnership domicile; a directive against interference with the victim's use of marital property for the duration of probation/parole; a condition directing that the perpetrator refrain from harassing his wife/partner by physical force, mail, telephone or third parties; and/or a "no-contact" order. Besides considering conditions to facilitate victim safety, the officer might consider the merits of batterer education/treatment programs and community service for the offender.

**Specialized Services.** A specialized program for work with batterers should be set up in each office. A protocol should be designed to facilitate the rehabilitation of batterers and the safety of battered women. Staff should be particularly trained for working with this population. For example, besides batterer education/treatment programs, offenders might be subjected to close scrutiny involving regular reporting to the probation and parole office to complete reading and written assignments on domestic violence. Periodic and unannounced home visits may improve batterer compliance. Specialized staff should be trained in dangerousness assessment and crisis telephone communication with battered women. They should know about emergency mental health commitments when someone on their caseload appears to be experiencing a mental health emergency, whether it is acute depression or homicidal ideation. Officers should not be reluctant to involve law enforcement in responding to reports of on-going domestic violence. New charges should be filed for any substantive crime committed in violation of the conditions of probation/parole. Probation and parole officers should take care for their own safety when intervening with a batterer who is alleged to be using violence again.

**Revocation.** Technical and substantive probation/parole revocation should be pursued where a batterer represents a clear and present danger to his partner. Wherever possible, the perpetrator should be detained prior to the revocation hearing. If the victim is not cooperative with the revocation, probation/parole might seek to proceed through independent testimony/evidence.

**Victim assistance.** Partners of offenders should be fully acquainted with the benefits and limitations of probation/parole services, and staff should be prepared to give informed referrals to domestic violence programs. Each time that an officer has contact with a partner of a batterer, an assessment of dangerousness should be made. Officers should encourage battered women to continue with development of safety plans throughout the period of probation/parole. Although domestic violence programs should provide the primary services for victims, officers should be prepared to provide emergency services to assist the victim to safe shelter and advocacy services.

#### **SYSTEMS COORDINATION.**

An intervention system is experimental in nature. It needs to be tested and revamped periodically. As case and statutory law are modified, policy and procedures must be modified in agencies in the intervention system. Changes cause ripple effects throughout the system and require parallel modifications. In most effective domestic violence intervention systems there is a coordinator or manager who works to maintain the efficacy of coordinated agency intervention. Without this coordinator, research informs us that systems begin to revert to prior practices, endangering battered women. (Fagan, 1988; Berk, 1982) Typically, this coordination function has been performed by the local domestic violence program.

#### **CONCLUSION.**

We have learned that the conjoint and parallel efforts of all the components of a domestic violence intervention system are essential for justice and safety to be achieved. We are hopeful that the legal system in many communities in Pennsylvania will strategically expand efforts in the coming year to implement comprehensive intervention in domestic violence situations. The Pennsylvania Coalition

Against Domestic Violence welcomes feedback from justice system participants. We are willing to provide consultation upon request. Please contact Margaret Innes of PCADV, 524 McKnight Street, Reading, PA 19601, 215/373-5697.

Barbara J. Hart, Esq.

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B.J. Hart justproj@aol.com

