

# THE SUPREME COURT *of* OHIO

## SPECIALIZED DOCKETS GUIDANCE

### Domestic Violence Drug Court Guiding Document

#### **Introduction & How to Use this Document**

A Domestic Violence Drug Court (DV Drug Court) is a specialized docket dedicated to cases dealing with monitoring both domestic violence charges and substance use disorder. While the definition of domestic violence in Ohio extends to family and household members including siblings, children, caregivers, parents, this hybrid docket should be limited to intimate partner violence cases. Judicial review calendars are instrumental to ensure defendant accountability and to keep the judges informed as to treatment progress and compliance. A fundamental tenet of DV Drug Courts is that it prioritizes victim safety by engaging victims and linking them to services.

A traditional domestic violence court is a dedicated court program that provides comprehensive judicial monitoring of offenders of intimate partner violence while frontloading services to victims. This traditional domestic violence court can handle criminal or civil (civil protection orders and/or child related relief in other family law matters) and can be either non-adversarial or adversarial. Most traditional domestic violence courts, known as “accountability courts” follow an adversarial approach where the involvement of defendants is typically mandatory – based on charge or relationship criteria. It is important to understand the framework of a traditional domestic violence court in order to incorporate some underpinnings of this approach with the treatment focused domestic violence drug court model. For more information on the framework of a traditional accountability domestic violence court model, please refer to the Appendix A: Core Components of Domestic Violence Courts: A National Perspective for Ohio Courts.

There are no national standards or guidelines for domestic violence drug courts, so with the assistance of Center for Court Innovation, the Ohio Supreme Court is providing this guiding document for courts to follow. While all dockets must follow the current “Specialized Docket Standards” for the Drug Court guidelines, these guidelines serve as a supplement to the existing standards for those interested in creating a DV Drug Court.

#### **Standard 1. Planning Process**

The purpose of a Domestic Violence Drug Court (DV Drug Court) is to review cases dealing with monitoring intimate partners accused of domestic violence who also have a co-occurring substance use disorder (SUD). DV Drug Courts are as concerned with the complaining witness/victim as with the defendant before the court. DV Drug Courts should include victim advocates from community or system-based organizations as part of the court team in order to provide ongoing support and/or safety planning to the victim and children. Through collaboration and strong coordination, the court requires intimate partners charged with domestic abuse to receive batterer intervention programming in addition to court ordered SUD treatment as a condition of their probation or as a condition of a diversion program. Defendants also need to attend frequent court calendars to monitor compliance with both programs (batterer intervention and substance abuse treatment). The goal is to develop intensive judicial

involvement through case monitoring, tracking and coordination and to make offenders accountable through swift and immediate consequences of their abusive behavior not just substance monitoring.

The planning process is essential to developing consistency and standard language for all stakeholders.

### **Guidelines for Certification**

- A) Planning team members and ongoing stakeholder meetings must include:
- domestic violence agency representatives (both independent and institutional providers);
  - batterer program representatives. If a jurisdiction does not have an operating batterer treatment program per the Ohio Standards for Batterers Intervention, it is recommended that they look at online options or seek services from a neighboring county. A formal batterer intervention program (BIP) is required.
- B) BIPs shall establish a policy on victim contact contingent upon agreement with the local domestic violence programs. The policy shall be in writing, supported by the local domestic violence programs and other collaborators, and be regularly assessed for appropriateness.
- C) The purpose of the victim contact policy shall be to assist with victim safety rather than to observe BIP participants' behavior. Therefore, BIPs with a victim contact policy shall make good faith attempts to notify the BIP participants' partners early in the treatment about the BIP information, limit of BIP work and information about local domestic violence programs and other supportive services.
- D) BIPs shall keep all information provided by the victim confidential unless victim consents to sharing the information. Victims shall be informed that the defendant participant will know the victim shared this information.
- E) The advisory committee should address how this docket will equally address the accountability of the abusive behavior and the treatment aspect of the SUD.
- F) DV Drug Courts should have on-site victim advocates from community-based or system-based organizations in order to provide support and safety planning.
- G) The court should affirmatively reach out to culturally-specific providers to ensure that underserved populations are able to access voluntary and mandated services. There are National Technical Assistance providers to assist with outreach efforts and best practices.
- H) Active engagement with community and court stakeholders on a regular basis. The DV Drug Court should continually seek new and relevant stakeholders/agencies to participate in stakeholder meetings such as health care and medical community, civil legal services, culturally specific organizations, etc. These convenings expand beyond the "treatment team" meeting and are not case specific but rather talk about community wide policies, practices, and ways to stay connected to enhance safety and accountability.

## **Standard 2. Legal and Clinical Eligibility**

Legal and clinical eligibility should be informed by best practices in both the traditional domestic violence court and drug courts. It is important to note that intimate partner violence is not a clinical condition. Therefore, treatment for the abusive behavior should be based on risk tools that account for domestic violence. There are two kinds of risk instruments, those that focus on risk, needs, and responsivity of the defendant, and those that specifically address domestic violence factors of lethality and recidivism. Research emphasizes the importance of implementing a generalized risk-needs approach when working with court-involved populations. This entails matching interventions to a litigant's risk level, addressing criminogenic needs in treatment, and maximizing learning by using cognitive behavioral techniques and strategies responsive to each litigant's strengths, motivations, and learning styles.<sup>1</sup> For more information on intervention, please visit <https://www.courtinnovation.org/dv-intervention-resources>. In DV Drug Courts, it is imperative to use both kinds of risk tools and understand the risk to the victim when determining mandates and sentencing especially when adding or modifying victim no contact provisions.

### **Guidelines for Certification**

- A) Ensure that the in eligibility process in DV Drug Court have the appropriate legal system players identify and include domestic violence history and risk. Some domestic violence risk tools are the Danger Assessment, Domestic Violence Screening Instrument (DVSI-R), Domestic Violence Risk Needs Assessment, Level of Service Inventory-Revised (LSI-R), Ontario Domestic Violence and Risk Assessment (ODARA). Such tools should work in tandem with ORAS to gain information about risk of re-arrest for future domestic violence and/or prediction of lethality. ORAS should not be the only tool used for this specific docket.
- B) Ensure SUD diagnosis is required for eligibility in DV Drug Court.
- C) Thorough consideration should be given to identify cases and transferring them to this specialized docket. While there are a variety of validated domestic violence risk tools, common risk factors among them are consideration of the history of domestic violence cases and/or previous protection orders, examples of coercive control and escalation of violence. DV Drug Court teams need to examine these factors by reviewing domestic violence case history with the current and previous partners as well as the statewide Online Order of Protection Registry and determine if the case is eligible. Some teams may want to focus on high risk cases, while others will want to take a range of risk levels. DV Drug Court teams should also ensure that eligibility will incorporate domestic violence cases that have been plead down especially if they meet many of the domestic violence risk factors listed above.
- D) Ensure that eligibility has passed a racial equity impact analysis such as <https://www.ndci.org/wp-content/uploads/2019/02/Equity-and-Inclusion-Toolkit.pdf>.

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<sup>1</sup> Andrews, D.A. and James Bonta. *The Psychology of Criminal Conduct*. Cincinnati: Anderson Publishing Company, 1994.

### **Standard 3: Program Entry and Case Flow**

The referral process and case flow should include use of a validated domestic violence assessment tool to determine appropriate referrals/mandates for the defendant/respondent. Victim input should be incorporated into the referral process through the victim advocate.

#### **Guidelines for Certification**

- A) Risk assessments, chemical dependency, mental health, and other programming assessments shall include available collateral information to ensure the accuracy of the assessment.
- B) Screening of victim and victim considerations should be incorporated into referral process but done by the independent or institutional victim advocate. For example, the prosecutor and/or advocate should outreach to the victim to discuss court program and expectations before accepting defendant in the DV Drug Court.
- C) Victim shall be notified of participant entering the DV Drug Court docket by the prosecutor and/or victim advocate.

### **Standard 4. Treatment and Rehabilitation**

Treatment of the abusive behavior does not happen in a vacuum and there is no test that can immediately identify if treatment is working. A growing body of evidence suggests that programs can improve outcomes by incorporating comprehensive assessments that gauge level of risk, trauma, hope and other needs; cognitive-behavioral learning strategies; and accountability mechanisms that reflect and value culture and community and incorporate self-reflection. Thus, it is critical that treatment and rehabilitation are rooted in a coordinated community response and victim/survivor voices are central in decision making.

#### **Guidelines for Certification**

- A) Batterer Intervention Programs (BIP) should follow the minimum standards established by the Ohio Standards for Batterers Intervention.
- B) Strive to meet the guiding principles for Abusive Partner Intervention and Engagement <https://www.courtinnovation.org/abusive-partner-resources>.
- C) Since the DV Drug Court is a criminal court and victims are the complaining witnesses in the case, victims are not subject to DV Drug Court's mandates thus should not be mandated to services. Instead, the court and its stakeholder partners should encourage victims to connect with advocates at the earliest possible point in the case so they can receive safety planning information as well as learn about the services offered and how to access them if desired.
- D) DV Drug Courts should continue to follow Ohio's Drug Court guidelines for referrals to certified Substance Use Disorder (SUD) and Mental Health (MH) programs.
- E) DV Drug Courts should communicate with their local BIP, SUD and MH agencies in order to determine program sequencing as part of the mandate. For example, the defendant may need to complete an in-patient SUD program prior to participating in the BIP program. The DV

Drug Court team should evaluate the programming options in their community to ensure that both BIP and SUD programming mandates can be completed. The mandates to these programs can be simultaneous or in a consecutive sequence based on what will be most beneficial to the defendant's ability to successfully receive the treatments.

### **Standard 5. Docket Progression**

This specialized docket is a balance between participant's performance in multiple treatment plans – understanding intimate partner abusive behavior including coercive control as well as SUD treatment. Thus, in addition to incorporating the Drug Court Model, the DV Drug Court will also rely on the accountability model of traditional domestic violence courts to gauge progress and determine where defendants are in their recovery process. Similarly, the phases should focus on orientation, participation, and maintenance. On the domestic violence side, progression should look at the participant's awareness of the impact associated with the use of violence and coercive control, demonstrate a commitment to change the abusive behavior, and maintain this commitment by no further criminal justice involvement and input from the survivor should they still be involved.

### **Guidelines for Certification**

A) Establish regular frequent monitoring dates for all defendants' post-conviction, starting within two weeks if possible.

### **Standard 6. Treatment Team**

A Domestic Violence Drug Court treatment team shall include a BIP provider. Victim safety must be prioritized in the treatment team. The BIP provider should be in contact with a victim advocate per the Ohio Standards for Batterers Intervention. Victim advocates may or may not be in attendance on treatment teams. It may be appropriate for an institutional victim advocate to be a part of the treatment team. However, due to confidentiality concerns, it may not be appropriate for the community-based advocate to be at some treatment meetings where specifics of the case are being discussed. Thus, it is critical that a member of the treatment team be in contact with the community-based advocate to be informed about treatment changes, noncompliance, etc. in order to enhance victim safety and have victim safety as a priority in its philosophy and work implementations. The BIP team member can help actualize this philosophy within the DV Drug Court. The Ohio Standards for Batterers Intervention provides information and guidelines on how BIPs should work with local domestic violence programs to share information to promote victim safety. In addition to the Ohio Standards, the Victim Contact in Abuse Partner Intervention: The Importance of Collaboration provides highlights of how states and individual programs have collaborated with victim advocates to create comprehensive and safe victim contact procedures.

### **Guidelines for Certification**

A) BIP Providers shall be included on the treatment team. Updates on the BIP attendance, participation, and attitude is necessary for the treatment team to understand offenders' performance/progression.

B) Promote that BIP, probation, and/or prosecutor should be in contact with victim advocates should they not be a part of the treatment team. See Victim Contact in Abuse Partner Intervention: The Importance of Collaboration for examples. This shall be elucidated in their roles and responsibilities.

## **Standard 7. Participant Monitoring**

Some specialized courts employ resource coordinators to facilitate communication between the court, service providers, and probation. If the court has a coordinator, it is important to determine which types of compliance information the resource coordinator will gather in preparation for each compliance hearing, such as reports from probation and mandated programs, drug test results, information from the victim advocate (with the victim's consent), and any new police reports or court cases.

BIP representatives should also appear at court to communicate directly with the judge about the perpetrators' compliance with mandated programs. With representatives from probation, the defense bar, the prosecutor's office, and batterer's programs present, the judge can make swift and consistent decisions if an offender fails to comply.

## **Guidelines for Certification**

- A) Hold regular compliance review calendars - Increased communication and coordination between the court, service providers, and probation is key to improving accountability for defendants. If defendants are in-compliance with both the BIP and SUD treatment and adhere to the victim safety provisions in their mandate, the court may reduce the number of court reviews each month.
- B) Actualize the philosophy of victim safety through effective engagement of a BIP as part of the treatment team.
- C) If the victim informs the BIP of participant's recent use of violence, the BIP shall provide the victim of some options: a) contacting appropriate authority such as law enforcement or probation; and b) contacting local domestic violence program or other support services. Should victim directly inform the BIP representative of participant's use of substances, while not bound by confidentiality requirements, the BIP representative shall seek victim consent to bring this information back to the treatment team.
- D) Duty to Warn: If the BIP participant makes direct threats to harm or escalates behaviors that may lead to violence, the BIP shall:
  - 1. Make a good faith effort to contact the victim or person to whom the threat is directed. This may be done through a third-party, such as other service providers and family members.
  - 2. Contact the law enforcement if deemed appropriate.
  - 3. Contact the referral agency, including the court, to discuss appropriate responses and/or to report the actions that took place in response to an imminent danger
- E) Create protocols to ensure that programs and probation report accurate information to DV Drug Court on a timely basis, including when offenders fail to attend programs or are terminated from programs, as well as violations of probation conditions.
- F) Examples of compliant behavior include: attended BIP, displayed a change in thinking, attitude, and beliefs, no violations of protection order
- G) Frequency of compliance reviews should be based on performance and compliance. Courts should be aware of any violations of no contact orders and closely monitor this.
- H) Changes to defendant's progress should be communicated to the victim by the prosecutor's office.
- I) Establish judicial response and protocol to victim's requesting modification of the no contact order that encourages victims to speak with an advocate about safety planning and legal options.



## **Standard 8. Incentives, Sanctions, and Therapeutic Adjustments**

The field is ever evolving when it comes to effective and promising ways to intervene in intimate partner abuse. While the research on what is effective continues to grow, programs are incorporating practices that: review whether and how to include risk and needs assessments; embrace a wider variety of treatment modalities; increase the consistency of their responses to non-compliance; and, incorporate a procedural justice framework. DV Drug Courts must balance the incentive structure and philosophy of traditional drug courts and the accountability philosophy of traditional domestic violence courts. DV Drug Courts should present defendants with certificates of completion and provide on-going positive reinforcement.

### **Guidelines for Certification**

- A) Sanctioning matrices shall address both abusive behavior such as violations of no contact orders/protection orders and compliance with BIP.
- B) Ensure that batterer programs have appropriate consequences in place for compliance and noncompliance, and that alternate sanctions are used in response to attendance policy non-compliance to ensure that the defendant is not being sent back to a program from which the person was expelled.
- C) Develop a sanctioning plan, including the use of graduated sanctions (such as increased frequency of appearances, remand, probation, more stringent probation conditions, or sitting in the jury box.
- D) Responses to noncompliance may include increasing court appearances, amending or revoking probation, or jail time.
- E) Victim contact shall not be used as an incentive.

## **Standard 9. Substance Monitoring**

Given the DV Drug Court docket involves victim contact and input as part of monitoring the participant, it is likely the victim may disclose that the participant is using or has used a substance to the victim advocate. As victim safety is paramount, the victim advocate must ask the victim if they approve the information being shared with the treatment team. If the victim approves this, the victim advocate should have the victim sign a waiver of confidentiality. This waiver will say that the information provided by the victim is not confidential and may be taken back to the treatment team. The advocate should seek input from the victim on whether the information shared with the larger treatment team should be acted upon. It may be that the victim is sharing this information while under duress but is not thinking of the safety implications disclosure of this kind may cause.

## **Standard 10. Program Completion**

Program completion criteria should follow the specialized docket standards and include the following considerations:

### **Guidelines for Certification**

- A) If victim consents, include victim's input on behavior change into criteria.
- B) Refer to reports providing information to the DV Drug Court on participant's attendance at BIP and other SUD and MH programs. Consider examples of compliant behavior such as displayed change in thinking, attitude, and beliefs, and no violations of no contact and/or protection orders.
- C) serious probation violation
- D) serious program infraction
- E) New serious criminal convictions or protection order violations
- F) Continuous non-compliance with treatment

## **Standard 11. Professional Education.**

Integrating domestic violence training on a regular basis is crucial to the success of the DV Drug Court. Trainings should be profession specific and multi-disciplinary.

### **Guidelines for Certification**

- A) Judges presiding in DV Drug Courts should receive special training, which covers not only operational and legal matters pertaining to the DV Drug Court but also the dynamics of domestic violence, the effects of trauma, lethality factors, strangulation, and the impact of domestic violence on children. Judges should attend the National Judicial Institute on Domestic Violence.
- B) Court administrators and staff should attend trainings offered through the Domestic Violence Fundamentals Training to ensure that all individuals staffing and supporting a DV Drug Court are sensitive to the unique dynamics surrounding domestic violence.
- C) On an annual basis, all team members should participate in training specific to domestic violence.



## **Standard 12. Effectiveness Evaluation.**

The active collection and analysis of data – measuring outcomes and process, costs and benefits – are crucial tools for evaluating the effectiveness of operations and encouraging continuous improvement. This includes measurements beyond recidivism - numbers of stakeholder meetings held, reviewing conditions of orders of protection, numbers of compliance reviews held.

### **Guidelines for Certification**

A) Include factors collected on offender accountability, victim safety, case processing, and interaction with other agencies. Examples of data elements are:

- Victim Safety – percentage of victims that are referred to services, number of victims updated on the status of the case, types of service referrals made by advocates, number of victims from underserved populations served
- Case processing – time from arraignment to transfer to DV Drug Court, length of participation in program, track sanctions, demographic data
- Offender accountability – number of compliance review hearings, frequency of monitoring both compliant and noncompliant defendants, types of noncompliance
- Interaction with other agencies – number of cross-agency contacts, number of stakeholder meetings, number of joint trainings

#### **Additional Recommended Practices**

- Consider disseminating information to the public as it can be a valuable symbol of public accountability.

## **Standard 13. Constitutional and Due Process Rights**

**Refer to the Standards.**

### **Additional Recommended Practices**

Ohio has passed the victims' rights constitutional amendment known as Marsy's Law in November 2017. See Ohio Constitution, Art. I, Sec. 10a. The law may have implications for these cases. See attached document for more information.

# THE SUPREME COURT *of* OHIO

## SPECIALIZED DOCKETS GUIDANCE

### CORE COMPONENTS OF DOMESTIC VIOLENCE COURTS: A National Perspective for Ohio Courts

#### INTRODUCTION

#### WHAT IS THE CENTER FOR COURT INNOVATION?

Winner of the Peter F. Drucker Award for Non-profit Innovation, the Center for Court Innovation is dedicated to reforming the justice system through demonstration projects, research, and expert assistance. The Center's goals are to help courts aid victims, reduce crime, and improve public trust in justice. In New York, the Center creates demonstration projects that test new approaches to problems that have resisted conventional solutions. Beyond New York, the Center disseminates the lessons learned from its demonstration projects, helping court reformers around the world test new solutions to local problems.

The Center provides hands-on technical assistance, advising innovators about program design, technology, and performance measures. The Center's approach to technical assistance is simple and practitioner-focused, based on direct in-house expertise implementing court reform projects.

#### Our Experience:

- Center for Court Innovation staff have designed, planned, and implemented a wide range of domestic violence courts that handle civil protection orders, misdemeanor, and felony cases. These courts are in suburban, rural, and high-volume jurisdictions.
- The Center has enhanced the domestic violence court model by creating one-family/one-judge, multi-jurisdictional Integrated Domestic Violence Courts. These courts, which integrate civil and criminal cases in a single courtroom, are among the most comprehensive judicial responses to domestic violence in the country.
- The Center has designed, built, and implemented specialized case management systems for domestic violence courts. Information technology is essential to ensuring that judges and domestic violence court staff are fully informed about each case.
- The Center uses research to assess the impact of domestic violence reforms to improve operations. The Center's research is published nationally.
- The Center employs a multi-disciplinary approach to plan, implement, and evaluate domestic violence courts.
- Center staff includes attorneys and social workers who have provided direct services to women who have been abused.

## WHAT IS A DOMESTIC VIOLENCE COURT AND WHY ARE THEY NEEDED?

A domestic violence court is a dedicated court that provides comprehensive judicial monitoring of domestic violence offenders and frontloads services to victims. The design and structure of domestic violence court programs are developed at the local level to reflect the unique strengths, circumstances, and capacities of each community. Domestic violence courts may address criminal cases, civil cases, or a combination of both.

Domestic violence courts seek to create new links with key stakeholders, including: domestic violence agencies, social service agencies, law enforcement, civil legal service providers, the defense bar, and mandated programs for offenders (i.e. community corrections, abusive partner intervention/batterer education programs, substance abuse treatment providers, and mental health services).

Domestic violence courts may be particularly helpful in communities where there has been a lack of involvement by the court in the coordinated community response for victims. In addition, domestic violence courts collaborate with community agencies in order to streamline and enhance the coordination of resources for victims and their children. Domestic violence court programs use a variety of techniques to monitor offenders, impose accountability, and ensure consistency in judicial decision-making.

We have included a glossary of terms of frequently used terms in Appendix A for your reference.

TYPE OF DOMESTIC VIOLENCE COURT, JURISDICTION, AND CORE PRINCIPLES

Type of Court	Jurisdiction	Core Principles
<p>One-family/ one- judge multi- jurisdictional domestic violence court</p>	<ul style="list-style-type: none"> <li>• Criminal domestic violence cases, misdemeanor and/or felony;</li> <li>• family law matters, including divorce, custody, child support, paternity;</li> <li>• civil protection orders;</li> <li>• child protective and juvenile justice matters if related</li> </ul>	<ul style="list-style-type: none"> <li>• Encourage informed judicial decision-making based on comprehensive and current information on issues involving the family.</li> <li>• Maintain due process and confidentiality protections for all matters.</li> <li>• Ensure consistent handling of all matters relating to the same family.</li> <li>• Provide on-going training for the presiding judge on domestic violence issues.</li> <li>• Improve victim safety through the elimination of conflicting orders and careful monitoring of offender compliance.</li> <li>• Increase efficient use of court resources, with reduced numbers of appearances &amp; speedier dispositions through consolidation of operations into one courtroom.</li> <li>• Ensure linkage to social services and other resources to address the needs of family members.</li> <li>• Improve collaboration among criminal justice, child welfare agencies and community-based groups offering assistance to domestic violence victims and their children.</li> <li>• Increase confidence in the court system by reducing inefficiency for litigants.</li> </ul>

Type of Court	Jurisdiction	Core Principles
Criminal domestic violence court	<p>Ordinance level, misdemeanor and/or felony criminal cases involving an adult defendant and adult victim involved in an intimate relationship, including:</p> <ul style="list-style-type: none"> <li>• Persons legally married to one another;</li> <li>• Persons formerly married to one another;</li> <li>• Persons who have a child in common, regardless whether such persons have been married or have lived together at any time;</li> <li>• Persons currently or formerly involved in an intimate relationship, including dating partners and same sex couples.</li> <li>• Elder abuse by family member or caretaker</li> </ul>	<ul style="list-style-type: none"> <li>• Encourage informed judicial decision-making based on comprehensive and current information.</li> <li>• Ensure a consistent criminal justice system response to domestic violence by having a single presiding judge.</li> <li>• Improve victim safety by front-loading services and increasing communication with other courts.</li> <li>• Increase offender accountability by ensuring ongoing monitoring of compliance.</li> <li>• Improve the community's response to domestic violence by linking the court with criminal justice system stakeholders – such as probation and the district attorney's office, the defense bar, community-based social services, and domestic violence advocacy groups.</li> </ul>

Type of Court	Jurisdiction	Core Principles
Civil/Family domestic violence court	<ul style="list-style-type: none"> <li>• Cases in which a petitioner/plaintiff (victim) has filed a civil protective order against an intimate or dating partner.</li> <li>• This type of court may also include related cases involving the petitioner and respondent, such as custody, visitation, and child protective cases.</li> <li>• Guardianship petitions on behalf elderly victims of domestic violence</li> </ul>	<ul style="list-style-type: none"> <li>• Enhance judicial decision-making by increasing the information readily available to judges.</li> <li>• Ensure a consistent response to domestic violence by assigning a single presiding judge.</li> <li>• Improve victim safety by front-loading services and increasing communication with other courts, including criminal.</li> <li>• Increase offender accountability by ensuring ongoing monitoring of the respondent's compliance without increasing the burden upon the petitioner.</li> <li>• Improve the community's response to domestic violence by linking family court with criminal justice stakeholders, community-based social services, and domestic violence advocacy groups.</li> </ul>

Type of Court	Jurisdiction	Core Principles
Juvenile domestic violence court	Cases in which a petitioner has filed a restraining order/civil protective order against a juvenile with whom they share, or have shared an intimate relationship, or with whom they have a child in common; or protective order applications between juveniles and their parents and or caretakers.	<ul style="list-style-type: none"> <li>• Enhance judicial decision-making by increasing information available to judges.</li> <li>• Ensure a consistent response to juvenile domestic violence perpetrators by having a single presiding judge.</li> <li>• Direct juveniles to age-appropriate programs that are interactive and designed to engage young people.</li> <li>• Frontload social services and other resources to address young victims' needs comprehensively.</li> <li>• Increase offender accountability by ensuring ongoing monitoring of compliance.</li> <li>• Improve community's response to juvenile domestic violence by linking court with youth-serving community-based social service providers and domestic violence advocacy groups.</li> </ul>

## OPERATIONALIZING CORE COMPONENTS OF DOMESTIC VIOLENCE COURT

### What Form Will The Domestic Violence Court Take?

What are the goals and major objectives for the domestic violence court that is being created?

Identifying and prioritizing the goals envisioned for the court will be the first step in determining its attributes. These goals will define the overall mission and purpose of the court. Then, consider what objectives are set for each goal identified for the court. Objectives explain how each goal is achieved. Typically, increased victim safety and offender accountability are high priorities.

### What type of domestic violence court is right for the community?

Even if there is an idea of what type of domestic violence court the community needs, it is appropriate to reconsider the specific jurisdiction of the project in light of the data collected. For example, given the numbers of domestic violence cases does the court and community want to:



- Focus only on intimate partner violence criminal cases? Do you want to target any specific level of criminal case, i.e. ordinance, misdemeanor or felony?
- Address intimate partner violence civil protection order cases?
- Address multi-jurisdictional intimate partner violence cases, i.e. families that have both civil and criminal cases pending simultaneously?
- Address all family violence cases including child abuse, cases with grandparents/parents/adult children; siblings and elder abuse in addition to intimate partner cases?
- Address intimate partner violence among juveniles?
- Address language, cultural, and social services for underserved populations?

Communities might also consider more in-depth questions about the cases that will be handled by the court. For example:

- How will the court define intimate partner violence cases? Is this limited by statutory definitions? If not, how will the definition mesh with definitions used by local police and prosecutors?
- Will the court hear cases associated with the defendant/respondent/offenders not directly related to intimate partner violence? For example, should the domestic violence court judge hear a pending drug possession charge not related to the domestic violence but concerning the same defendant?
- Will the court include additional types of charges and/or cases in the future? If so, what will be the timetable for phasing in each case type?

## DOCUMENTING YOUR PLAN

### What is a planning document and why is it necessary?

Even with a short planning timeline, teams will discover the importance of creating a planning document. The planning document is the written version of all the policies and procedures developed during the planning process. Memorializing these protocols in writing helps to clarify the mission of the domestic violence court, formalizes the roles and responsibilities of court, and stakeholder staff and helps to ensure the accountability of the court and its partners. The planning document also serves as a reference for future personnel in the event of staff turnover.

As the planning process continues, additional challenges will arise. In addition to being a touchstone for action, the planning document will also be a living document that can be updated to reflect needed changes and additions.

## Planning Document Checklist: Basic Information that Should be Memorialized

A checklist is provided below to assist you in the creation and organization of the planning document:

- Mission and goals of the court.
- A list of planning team and advisory board members and additional stakeholders.
- The types of cases heard in the dedicated docket and any court rules/statutes issues to support the creation of the domestic violence court.
- A staffing plan for the court, delineating additional court personnel needs, and job descriptions of proposed additional staff. The plan should identify existing court and stakeholder agency staff who may perform some additional functions.
- Services for Victims: outlining who will be providing services both legal and supportive counseling, where services will be provided, and how referrals will be handled.
- Services for Defendants/ Respondents: outlining who will be providing legal services for defendants or respondents, what mandated programs are available to the court, and how referrals will be handled.
- Name the presiding judge and a back-up judge for the domestic violence court.
- List the trainings on domestic violence dynamics and law that the presiding judge, back-up judge, and relevant court staff will attend as preparation for opening the domestic violence court.
- If the court is handling protective orders, include policies concerning full, faith and credit requirements, firearms, and other strategies to ensure effectiveness.
- Include the plan for judicial monitoring of defendants/respondents/offenders, including those mandated to programs and under court orders of protection and other conditions. Outline linkages to the referral process to appropriate providers, reporting requirements, information sharing, designation of a liaison from each program to the domestic violence court, proposed scheduling of court appearances, and a sanctioning plan for defendant/respondent/offender failure to comply.
- Delineate the physical space plan that includes secure space for domestic violence victims, space for on-site services and additional back-office space for other court personnel. Additional court security plans should also be included.
- Outline the technology being used in the court project—include who will be using which technology and for what purpose being mindful of confidentiality issues.
- Document what types of evaluation and feedback mechanisms of the project will occur, and who is responsible for evaluation.

## CASE IDENTIFICATION AND TRANSFER

### Case Identification

Case identification is the process for flagging civil or criminal domestic violence cases as potentially eligible for transfer to the dedicated court according to the parameters that have been set for the court. For example, a state domestic violence statute may include violence between siblings, but the court may decide to focus on intimate partner cases only. Identifying these domestic violence cases is the essential first step in the process. Once it has been determined which cases will be handled in the dedicated court, for example, civil protection orders, criminal cases or both, the court and its stakeholders (prosecutors, clerk intake centers, etc.) will need to establish how they are screened and identified as eligible. The court will also need to determine who will carry out these screening and identification activities.

Planning teams may need to work closely with the state criminal justice agency, court staff, the county prosecutor's office, and local law enforcement to determine the best mechanism for identifying and tracking domestic violence cases. The following sources of information may prove helpful in the process:

1. The state criminal justice agency;
2. Order of protection petition and domestic violence complaint filings;
3. Supporting depositions;
4. Information on arrest reports;
5. Information from the prosecutor's office;
6. Automated Case Management Systems; and
7. Other domestic violence flags specific to your area.

### Transfer

In addition to developing protocols for the identification of eligible cases, it is helpful to create procedures that ensure eligible cases are moved at the earliest possible stage to the domestic violence court.

It is important to identify and document who will be responsible for case identification, screening and transfer of cases. Some courts have one person responsible for this, while others have multiple people or agencies indentifying the cases.

It is recommended that the team consider maintaining a separate calendar dedicated solely to domestic violence cases including monitoring compliance. (See judicial compliance section below for more information.) Many domestic violence courts have found that this practice facilitates improved information sharing and more efficient case management.

## Judicial Compliance

Judicial compliance reviews, or judicial monitoring, ensure court supervision of offenders' compliance with court-mandated conditions—such as restraining orders, probation conditions, and abuse intervention program attendance—and consequences for violations. Judicial supervision is typically accomplished in the domestic violence court context by bringing offenders back before the judge for frequent appearances on a compliance calendar. For example, a judge might bring a defendant back to court every other week in the beginning of the mandate. If the defendant complies with all court-imposed conditions, including abiding by the order of protection and attending an abuse intervention program regularly, the judge might increase the length between monitoring appearances. The goal is to send the message that all court orders, even those that don't involve incarceration, have real consequences.

The success of monitoring and the compliance calendar is dependent upon timely reporting and information sharing between stakeholders and the court.

Judicial compliance reviews are central to promoting accountability. It is important to consider how compliance will be monitored by the court and court stakeholders. In particular, consider:

- Establish guidelines for consistency in reports to the court regarding program compliance for all agencies who provide mandated programming;
- Ensure that programs have clear compliance rules;
- Designate court staff responsible for gathering reports and an easily accessible area to store these reports;
- Create standard forms for program agencies to be used for reporting;
- Establish general frequency of compliance appearances and determine if agencies providing mandated services can appear in court as well;
- Consider sanctions that may be appropriate for non-compliance other than new criminal behavior;
- Formalize the role of local stakeholders in monitoring compliance possibly in addition to judicial monitoring (i.e. probation); and
- Establish protocols for probation violation hearings.

## Ensuring Victim Safety in the Courthouse

Domestic violence courts should provide a safe and secure environment. What are the court's project goals regarding victim safety and how are they reflected in your courthouse and operational protocols?

Below are some suggestions for creating a safe and secure environment:

- Sufficient security personnel who are well trained in the area of domestic violence and can identify and respond to potentially volatile situations.
- Protocol for court staff (including clerks, security and interpreters) assigned to the domestic violence court specifying if staff will be dedicated or rotating staff.
- Protocols for timing of litigants arriving to and departing from court.
- A printed calendar for security and court staff to ensure identification of all litigants.
- Domestic violence training for all court staff including court security.
- Clear and visible signs posted to direct litigants to needed services in all relevant languages.
- A clearly marked information desk or central location for public inquiries with an ability to respond to those with limited English proficiency.
- Readily available information regarding the domestic violence court as well as on-site and off-site services.
- A safe waiting area for victims of domestic violence and their children that is staffed with an advocate who can direct them services.
- A safe space available for reception and a children’s play area.
- A separate space for defendants/respondents/offenders to avoid contact with victims including separate waiting and attorney conferencing areas for defendants/respondents/offenders and complaining witnesses/victims.
- A case management system that ensures confidentiality and case integrity.

## Staffing

It is important to outline which staff and stakeholders will be needed in court and what their roles and responsibilities will be in order to ensure the court runs smoothly. The caseload analysis, judicial monitoring, and victim safety considerations are useful tools in identifying what the day to day operations of the court will look like. In order to achieve the court’s goals, what court staff will be needed? What would these roles and responsibilities look like—both in the day to day operations and on the actual day of court? What time and staffing commitment is required of stakeholder agencies to ensure the court project is efficient and coordinated? Be specific as possible and include all possible stakeholders and court staff in this process. Examples of staffing considerations are:

- Case identification and screening
- Database management
- Clerk staffing in the court room

- Security staffing
- Compliance monitoring: resource gathering, program referral, compliance reporting, sharing information with judges
- Staffing of compliance reviews: what stakeholders need to be there
- Calendar call: what stakeholders and court staff need to be there

See Appendix B for samples of Victim Advocate and Resource Coordinator job descriptions.

## Technology

Technology plays an important role in enhancing court operations and can significantly increase a judge's ability to make informed decisions, enhance the accountability of offenders, and promote collaboration with court partners. Planning teams should conduct research to discover all of the different technology applications currently being used by the court and determine whether or not these systems have specialized identifiers for domestic violence cases. These identifiers can assist in streamlining the transfer of cases into a dedicated court and tracking outcomes.

In addition, teams may want to investigate whether or not their state has access to a statewide database/registry of all orders of protection and how local orders are added to the registry. This type of registry will prove to be very useful for the domestic violence court when personnel need to determine the history of violence in a particular case.

## Stakeholder Involvement & Sustaining Collaboration

A clear understanding of the community's resources will enable the court to develop protocols with stakeholder agencies to outline each agency's role regarding victim service referrals and defendant program mandates.

## FRONTLOADED DOMESTIC VIOLENCE SERVICES

Early linkage to services for victims helps to promote safety and improve service delivery for the victim and the children. The planning team should identify the existing victim services providers and the types of services offered. For example, the community might have system-based victim services, such as those provided by the prosecutor's office, as well as an independent, community-based domestic violence service agency. In this case, the planning team should examine the difference in these services, create protocols for referrals made to each agency, and determine whether they can have staff on-site at the courthouse. In addition, the planning team should work to include culturally and linguistically responsive agencies for victims in order to meet the needs of the entire community.

Each domestic violence court presiding and back-up judge as well as court staff should become familiar with the agencies that can provide victim services to the court and litigants. When appropriate, the judge as well as court personnel can meet with the heads of each agency to determine referral protocols.

## LEGAL REPRESENTATION FOR LITIGANTS

It is important to identify potential sources of legal representation for the parties that come before the court, including public defender organizations, legal services and non-profit teams, lawyers for children, and the private bar. It will be helpful to develop protocols for determining how volunteer attorneys can be linked to self-represented litigants.

## OTHER COMMUNITY AGENCIES

Domestic violence courts may collaborate with service providers to ensure a coordinated community response and comprehensive services for all parties. Specific activities include:

- Establishing liaisons with all stakeholders for victim service provision and offender accountability including agencies that serve older, disabled, and diverse communities;
- Establishing protocols between these agencies and the court;
- Instituting cross-training programs;
- Providing a schedule for regular, ongoing stakeholder meetings; and
- Planning for the involvement of judges and court staff in outreach and training opportunities.

## SUSTAINING COLLABORATION

Continued communication among stakeholder agencies will help to encourage ongoing interagency cooperation and elicit helpful feedback and solutions regarding the court's performance. Each community faces unique challenges when creating and maintaining their own domestic violence court. Ongoing and consistent communication, periodic meetings and training with the planning team, and continued evaluation of court goals and operations are vital to the court's ability to serve the needs of victims effectively within the community and hold offenders accountable.

### Training

Understanding the dynamics of domestic violence, new research, and national best practices is crucial to ensure the ongoing success of your court project. Outlining training resources and integrating training into the planning and ongoing operations is a key step in the planning process.



## **Judicial Training**

An informed judiciary is vital to the efficacy of all domestic violence court models. In addition to providing education on the dynamics of domestic violence, trainings targeted specifically to judges can provide tools for handling the nuts-and-bolts legal issues of these cases and give a stronger sense of the roles judges play in and out of the courtroom to help victims achieve safety and hold offenders accountable.

## **On-Site Local Trainings**

Planning teams can take a leadership role to help engage and educate court staff, court stakeholders, and the community at large about domestic violence by organizing and providing on-site trainings at the courthouse.

A useful approach is to consult with the local domestic violence service provider(s) to choose a topic related to domestic violence and to select local domestic violence advocates/experts to conduct the training. Consider using the Planning Domestic Violence Training Programs for Your Community: A Practice Guide to help identify and prioritize training topics. Possible topics include: General Introduction to the Dynamics of Domestic Violence; Cultural Responsiveness and Domestic Violence; Elder Abuse; Domestic Violence and Disability Issues; Children and Domestic Violence; Procedural Justice; Trauma and Domestic Violence; and Offender Accountability Guidelines and Victim Safety.

## **Non-Judicial Personnel, Including Court Staff and Security**

Knowledge of the dynamics of domestic violence among court and court stakeholder staff is essential to creating a responsive court. Court staff may be the first people that victims encounter, and the demeanor of the domestic violence court staff will impact a victims' overall experience.

## **Evaluation: How will success be measured?**

The planning team will want to be able to monitor and assess the performance of the domestic violence court once it has been implemented. One way is to obtain a formal independent evaluation of the court's implementation and impacts by assessing recidivism, victim services, offender compliance with court orders, or other outcomes. In addition, whether or not the court decide to invest in a formal evaluation, it is useful to take some simple steps towards "self-assessment"—determine the court's most important goals and objectives, identify a simple, short list of key performance measures to monitor progress, and institute a data collection protocol to ensure that the measures that were identified can be tracked.

## APPENDICES

### Appendix A

#### Glossary of Terms

This glossary of terms provides definitions relevant to the contents of this toolkit and may not include definitions outlined by federal, state, and/or local laws.

**Abusive Person Intervention Program (APIP) also called Batterer Intervention Program (BIP):**

Educational programs for people that abuse their intimate partners.

**Accountability:** Holding domestic violence offenders responsible for their actions and promoting the message that battering will not be tolerated. This is one of the primary purposes of the domestic violence court. Both courts and stakeholders play significant roles in accomplishing this goal through coordination and information sharing.

**Advisory board:** A panel of executive-level personnel and decision makers from the community that provide assistance to the planning team from a policy-level perspective. The committee is not typically involved in the “day-to-day” running of the court.

**Baseline data:** Basic information gathered before a program begins. It is used later to provide a comparison for assessing program impact.

**Batterer Intervention Program (BIP):** see Abusive Person Intervention Program (APIP).

**Compliance calendar:** A consistently held calendar in the domestic violence court which entails bringing defendants back to court to ensure observance of a court-ordered condition such as an order of protection or attendance at a batterer program and swift consequences for noncompliance.

**Court stakeholders:** Agencies or organizations with a mission that necessitates frequent interactions with the court system or with individuals involved in the system, such as criminal justice agencies, defense attorneys, victim service agencies, and other social service organizations.

**Defendant:** The person charged with an offense in criminal court. Domestic violence courts maintain traditional adversarial roles and require strong defense advocacy.

**Domestic violence:** A pattern of actual or threatened physical, emotional, verbal, and sexual abuse, which includes, but is not limited to, threats, intimidation, isolation, and/or financial control. Domestic violence is an intentional pattern of behavior that is used by one person as a means to harm and take power and control over another person in the context of a dating, family, caretaker, or other intimate relationship.

**Domestic violence court:** A domestic violence court is a dedicated court that provides comprehensive judicial monitoring of domestic violence offenders and frontloads services to victims. (see the Introduction for a description of several domestic violence court models.)

**Institutional review board (IRB):** A group that has been formally designated to approve, monitor, and review research involving humans with the aim to protect the rights and welfare of the subjects.

**Judicial compliance review/monitoring:** Judicial supervision of domestic violence offender compliance with court mandates, including orders of protection and mandated program attendance. Effective monitoring is dependent upon coordination with court stakeholders. The domestic violence court compliance calendar is frequently used as the primary mechanism for judicial monitoring.

**Petitioner/Plaintiff:** The person or agency filing the petition in civil or family court.

**Planning document:** A written version of all the policies and procedures you have discussed and developed during the planning process.

**Planning team:** A group typically comprised of judges, court staff and middle-management court stakeholder representatives, who are responsible for participating in the development of policies and procedures within the court and between court stakeholders.

**Prosecution Witness:** In a criminal court, it is the primary witness for the prosecution whose testimony is the foundation for the charges brought by the prosecution.

**Respondent:** The person or agency against whom the petition is filed in civil or family court.

**Site visits:** Visits hosted by a pre-existing court for planning teams to observe court projects, meet judges and court planners, and participate in peer-to-peer consultations with relevant counterparts.

**Victim advocate (community-based):** An individual who works for an independent victim service agency and provides domestic violence victims with notification of and accompaniment to court hearings, education regarding the court system and domestic violence, safety planning, and assistance with obtaining protective orders. Community-based victim advocates also liaise with prosecutors, probation officers, and court personnel. Most independent victim service agencies have a written confidentiality waiver that must be signed by the victim before the advocate can share information with the court or any other person or organization.

**Victim advocate (institutional):** An individual who typically works for the prosecution or law enforcement agency and who assists victims of domestic violence and promotes trust and communication between the victims and prosecution as the cases proceed through the criminal justice system. These advocates also explain the prosecution's position to the victim and the possible effects and consequences of their actions to increase the victim's understanding of the criminal case. In addition, institutional victim advocates conduct safety planning, court accompaniment, shelter placement, and advocacy. Because of their affiliation with organizations mandated to investigate and prosecute criminal activity, these advocates may be compelled to give victim information to the prosecutor—even if the victim does not want the information to be shared.

## APPENDIX B

### Job Descriptions

#### **Resource Coordinator**

The Resource Coordinator will gather and organize all related court information pertaining to the litigants in the DV Court; assist with intake assessments; develop a resource guide for court staff and stakeholders; develop and implement protocols with off-site agencies regarding offender compliance and victim referral; oversee the submission of required reports and compliance-related paperwork; work collaboratively with staff, criminal justice, and social service agencies to coordinate the delivery of services; serve as a liaison between the Court, private, and public agencies; participate in program planning and development; identify appropriate offender services for referral; and facilitate linkages with community service providers.

Preference will be given to a MSW or CSW with experience in criminal justice or family court, teen dating violence or domestic violence, and assessment and linkages to services. Familiarity with the court system; ability to interact with members of the judiciary and social service providers; excellent written and oral communication skills; strong organization skills; ability to manage multiple projects simultaneously; and familiarity with computer technology applications is desirable.

#### **Victim Advocate**

The Advocate will work on-site at the [Name of Court] during the domestic violence court's days of operation. The Advocate will work closely with the Resource Coordinator to receive victim referrals and coordinate information sharing between the court and the victim service agency regarding court dates, offender compliance, and victim safety concerns. The Advocate will be responsible for: contacting victims by telephone, letter, or through appointments to provide information regarding court procedures, compliance, and conditions of protective orders, as well as provide crisis intervention, emotional support, referrals to shelters, relocation assistance, and safety planning; advocating with the criminal justice personnel on behalf of clients; maintaining case records and statistics; and attending domestic violence court stakeholder meetings with other service providers and court personnel associated with the domestic violence court.

## APPENDIX C

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Also available at [www.courtinnovation.org](http://www.courtinnovation.org)

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