



WASHINGTON STATE
COALITION AGAINST



DOMESTIC VIOLENCE

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INTRODUCTION

I. PURPOSE

The purpose of the *Post-Arrest Model Response for the Supervision of Domestic Violence Offenders* are:

- > To commit to text those practices that best advance victim safety and perpetrator accountability
- > To serve as a practitioner's guide for supervising domestic violence offenders in the community
- > To serve as an educational tool for criminal justice professionals on domestic violence

While emphasis is placed on the role of community corrections, it is clear that model supervision cannot happen without judges, prosecutors, victim advocates, law enforcement, court administration and treatment providers working in concert with those who supervise domestic violence offenders in the community. Therefore, there are protocols that specifically address docket management, prosecution, sentencing practices and interacting with victims of domestic violence.

II. FOCUS

The model protocols are aimed at supervising domestic violence offenders. However, great pains were taken to ensure that victim interests remained the main driving forces behind the model.

A practitioner using this guide will recognize several recurring themes that advance victim safety and autonomy. Among the more frequent themes are:

- > Informing victims of their rights
- > Providing victims the opportunity to be heard at all phases of the criminal justice process
- > Educating victims on how the criminal justice system works
- > Informing victims of the status of their case
- > Gathering information on financial, physical and psychological effects on victims
- > Providing victims the opportunity to give input on conditions of release and sentences
- > Explaining to victims the conditions of release or sentence
- > Informing victims whom they should contact regarding their concerns



INTRODUCTION

III. OVERVIEW

The *Model Protocols for Community Supervision of Domestic Violence Offenders* is divided into five chapters.

Chapter 1 Interacting with Victims of Domestic Violence

This chapter contains six protocols designed to advance victim autonomy, safety and privacy and one protocol for establishing and maintaining a domestic violence team. These protocols represent practices that will help establish good rapport between criminal justice professionals and victims of domestic violence.

Chapter 2 Managing the Defendant and During the Pre-trial

This chapter contains seven protocols designed to expedite domestic violence cases and for managing the risk that alleged perpetrators of domestic violence pose during the pre-trial stage.

Chapter 3 Aggressive Prosecution

This chapter contains five protocols designed to enhance perpetrator accountability by practices proven to increase conviction rates and to reduce victim danger by not placing the victim in the middle of deciding whether the defendant should be prosecuted.

Chapter 4 Probation

This chapter focuses on cases generally originating in courts of limited jurisdiction where counties and cities are tasked with monitoring the domestic violence offender's compliance with court ordered conditions. This chapter contains eight protocols designed to advance compliance through close monitoring and proper information sharing.

Chapter 5 Felony Community Supervision

This chapter focuses on cases originating in courts of general jurisdiction where the state is tasked with monitoring the domestic violence offender's compliance with court ordered conditions and contains ten protocols designed to advance compliance through close monitoring and proper information sharing.

INTRODUCTION

IV. ORGANIZATIONAL STRUCTURE OF EACH CHAPTER

Each chapter is divided into sections by protocol title. The numerical identifier for each protocol corresponds to the chapter that it is in. The alphabetical identifier for each protocol corresponds to its placement order within the chapter. For example, protocol 6C would be the third protocol in the sixth chapter.

Each protocol is divided into four sections. The first section identifies the main aim of the protocol and is titled **primary objective(s)**.

The second section lists the steps necessary to effectively accomplish the primary objective. This section is titled **essential elements**.

The third section underscores the objective's importance and why the essential elements are necessary to achieve that objective. This section is titled **rationale**.

The fourth section provides commentary to guide professionals who work with perpetrators and victims of domestic violence. This section is titled **practitioner tips**.



CHAPTER 1

Interacting with Victims

PROTOCOL 1A:

Explain Your Role and Inform the Victim of What Will Happen with the Information She Shares with You

Primary Objectives

The primary objectives of this protocol are to increase victim autonomy and knowledge of the criminal justice system.

Essential Elements

The essential elements of this protocol are:

- > Define your duties to the victim
- > Explain how these duties may affect her
- > Clarify the limits of what you can and cannot do
- > Tell her what information cannot be kept in confidence
- > Tell her who will have access to the information she shares
- > Explain to her how you plan to use the information she shares

Rationale

The criminal justice system is complicated and intimidating. Consequently, victims of domestic violence frequently may have difficulty grasping the roles of its participants and may be wary of how the system will impact them.

Victims of domestic violence often have their autonomy stripped by the coercive tactics of their abuser. Ironically, one tactic regularly employed by abusers is to play upon

the fear and lack of understanding that the victim has about the criminal justice system.

Failure to educate the victim about your role and what happens with the information she discloses further weakens her right to control her life. In order for the victim to make choices freely and intelligently it is necessary for her to understand what your responsibilities are and where your allegiances lie.



CHAPTER 1

Interacting with Victims

Practitioner Tips

A frank exchange regarding your duties and what will happen with information disclosed can also benefit you. First, it may guide her away from providing information that will put her in greater danger.

This is important to you because there will be times when your duties are in conflict with victim safety. In other words, information she shares with you can put you in the unwelcome position of having to choose between victim safety and your duty to the court. By

explaining your role and what will happen with the information she shares, the victim can opt not to disclose information that endangers her and creates a dilemma for you.

Second, a frank exchange regarding your duties goes a long way towards establishing trust and rapport with the victim. If the victim knows what will happen with the information she shares, she is more likely to be candid in her communications with you.

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PROTOCOL 1B:

Provide Victims the Opportunity to Freely Share Information with You

Primary Objectives

The primary objectives of this protocol are to provide victims a voice in the justice process and to avoid re-victimization.

Essential Elements

The essential elements of this protocol are:

- > Contact the victim and ask her if she is willing to recount the incident and provide information related to it
- > Ask her what she thinks is important
- > Ask her what she believes would be a desirable outcome
- > Avoid threatening statements intended to elicit disclosure by her
- > Avoid consequence-driven actions intended to elicit disclosure by her
- > Avoid inferences that your willingness to help her is contingent upon disclosure
- > Avoid belittling comments in order to elicit disclosure

Rationale

In order for the victim to have a voice, she must be provided the opportunity to recount the abuse and provide input. However, participation should not be forced.

If the victim elects not to disclose information or is hesitant to do so, it is often predicated on her belief that

it will put her in greater danger. Coercing the victim into sharing information also re-victimizes her through controlling tactics now being applied by professionals within the criminal justice system.

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Interacting with Victims

Practitioner Tips

Too often workers in the criminal justice system judge victims of domestic violence. It is common to hear, “if it were me, I would throw his ... out.” Or “why doesn’t she just leave.” One inference that can be drawn from such comments is that the victim lacks self-reliance.

Ironically, when a victim chooses to rely on her own instincts rather than the paternal interests of the state, people within the criminal justice profession chastise her for her self-reliance. This type of tactic, whether employed by a

good intentioned worker within the criminal justice system or by the abuser, sends the victim the message that her decision-making ability is inferior.

A better approach is to provide the victim an opportunity to be heard and provide information that will assist her in making an intelligent decision. The decision reached by the victim should be respected by the criminal justice professional regardless of whether that professional believes it to be correct or flawed.

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PROTOCOL 1C:

Respect the Victim's Level of Fear

Primary Objectives

The primary objectives of this protocol are to acknowledge that the victim's fears are real and avoid giving the victim a false sense of security.

Essential Elements

The essential elements of this protocol are:

- > Do not minimize the victim's concern of danger
- > Do not promise her that the criminal justice system can keep her safe
- > Do not lead her to believe that treatment is a definitive cure
- > Clarify the limits of what you can and cannot do
- > Inform her that violence usually escalates in frequency and severity over time
- > Inform her that initial separation from the domestic violence offender can be the most dangerous time

Rationale

A victim of domestic violence is almost always the best judge of her own safety. It is better to validate her concerns for safety by acknowledging this, so she will continue to take steps

to protect herself, rather than giving her the impression that the criminal justice system is a cure all and can protect her.

Practitioner Tips

If it appears that a victim of domestic violence does not fully appreciate the danger you perceive she is in, assist her in identifying danger and encourage

her to develop a safety plan (see protocol 1D.) Refer her to community-based victim advocates for further assistance.



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Interacting with Victims

PROTOCOL 1D:

Assist Victims in Identifying Danger and Encourage Them to Develop Safety Plans

Primary Objectives

The primary objectives of this protocol are to provide information that assists victims in recognizing danger and developing plans of action for minimizing injury.

Essential Elements

The essential elements of this protocol are:

- > Take the victim's safety concerns seriously
- > Validate the seriousness of the abusive incident
- > Discuss the dynamics of domestic violence with her
- > Assume that the perpetrator is still exerting control over her
- > Warn her of specific dangers that come to your attention
- > Provide telephone numbers, where possible, of local shelter(s), safe house(s), community-based victim advocate(s) or domestic violence service provider(s)
- > Encourage safety planning

Rationale

Knowledge and proactive planning by victims of domestic violence may

result in limiting the harm inflicted by perpetrators.

Practitioner Tips

Criminal justice professionals who handle a high volume of domestic violence cases are able to observe some disturbing trends. Share this information with victims so they can make more educated decisions, but

avoid the temptation of making decisions for them. Victims of domestic violence have the greatest stake in their safety plans, so control should remain with them.



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Also, recognize that your position represents only one perspective within the system. Your ability to identify danger may be limited to your professional role.

Encourage victims of domestic violence to seek help from others, especially community-based victim advocates, who have the advantage of working with victims on a wide range of issues over an extended period of time.



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PROTOCOL 1E:

Inquire About Controlling Behavior and Tactics Employed by the Perpetrator

Primary Objectives

The primary objectives of this protocol are to provide the victim an opportunity to describe the perpetrator's abusive behavior and to utilize this information to deal more effectively with the perpetrator.

Essential Elements

The essential elements of this protocol are inquiring about whether the perpetrator has:

- > Isolated the victim from her family, friends or other support systems
- > Created economic dependence by preventing the victim from having a job or by controlling finances
- > Used coercion, threats or intimidation
- > Attacked the victim's self-esteem or used emotional abuse
- > Used children to give messages or threatened to have children taken away
- > Blamed the victim for his actions
- > Used male privilege
- > Used physical and/or sexual abuse

Rationale

It is important to provide the victim an opportunity to describe the domestic violence offender's behavior because it gives the victim a voice in the process, it validates the seriousness of the

offense, and it arms the criminal justice professional with information that will assist them in dealing with the perpetrator.



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Practitioner Tips

This is extremely sensitive and private information, so take a delicate tact. Start with the least intrusive questions. Give the victim the opportunity to choose the course, including non-disclosure of the information. Remember to explain to her what will

happen with the information she shares with you (see protocol 1A).

Consider employing criminal justice based victim advocates to make these inquiries.



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PROTOCOL 1F:

Empathize

Primary Objective

The primary objective of this protocol is to gain understanding of the victim's perspective.

Essential Elements

The essential elements of this protocol are:

- > Focusing on the victim's feelings and the reasons for those feelings
- > Projecting yourself into the victim's set of circumstances
- > Avoid judging the victim
- > Avoid placing blame on the victim

Rationale

Understanding the victim's perspective, whether it be her perception of how she was harmed or what she believes would be the best resolution is a key step toward restorative justice. However, it is difficult to fully appreciate her losses unless we have shared similar life experiences.

allows people to simulate how they would feel and think if they were placed in the same situation as another person. While a person who empathizes is still unlikely to fully appreciate the other person's perspective, it is nevertheless a useful tool in getting closer to understanding that person's perspective.

While empathizing differs from having similar life experiences, it nevertheless



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Practitioner Tips

Frequently, workers within the criminal justice system judge or blame the victim of domestic violence. Some common remarks include “why does she stay in that relationship?” Or, “if she is dumb enough to stay in that relationship maybe she deserves to have her . . . beat.”

It is important that workers within the criminal justice system realize that an individual’s thought process is greatly

impacted by her education, training and life experiences. Rather than judge the victim based on your own life experience, the better approach is to try to put yourself in the victim’s shoes in order to gain a better understanding of how victims reach their decisions. The Washington State Coalition Against Domestic Violence has developed a tool to assist you in doing this. For more information, contact the Coalition.

PROTOCOL 1G:

Create and Maintain a Community Domestic Violence Action Group

Primary Objective

The primary objective of this protocol is to foster a community approach toward ending domestic violence.

Essential Elements

The essential elements of this protocol are:

- > Establish a community group that is committed to ending domestic violence
- > Ensure that domestic violence victims are active participants in the group
- > Identify and include parties that have the authority to affect policy
- > Meet on a regular basis
- > Develop a community plan of action toward ending domestic violence

Rationale

Having a domestic violence community action group creates an opportunity to tap into the collective

knowledge and resources of the community to develop a local plan for ending domestic violence.

Practitioner Tips

Keep the group focused. If the community action group is in its early stages, common ground will need to be established. Avoid the temptation to address the most divisive or complex issue first.

Start with the basics: What are the needs of the community? Is there a climate of tolerance in the community? What are the goals of the action group?



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Build: Prioritize goals and develop strategies for furthering those goals that have the highest priority. Assess

the likelihood that the strategy will advance the goal. Select those strategies that are perceived to be the most effective.

Develop practices that advance the domestic violence action group's goals. This area will require a lot of technical analysis. Rather than reinvent the wheel, look to already-established models and practices and assess whether those practices can work in your community. Adopt practices that fit your action group's goals.

Finally educate those who will be affected by the practices.

Issues regarding resources will always be raised. Resources will be frequently perceived as a barrier, but sometimes they are used as an excuse to avoid change.

Troubled water usually requires careful navigation, but some occasions will require confrontation. If an agency or person is unwilling to employ reasonable practices by claiming a lack of resources, revisit the issue of community tolerance. If there is sufficient outrage in the community, or if sufficient outrage can be generated, draw from that when necessary.

CHAPTER 2

Managing the Defendant Pre-trial

PROTOCOL 2A:

Detain Defendants Arrested for Domestic Violence Related Crimes Until Initial Appearance

Primary Objective

The primary objective of this protocol is to detain the defendant arrested for domestic violence until a judge can assess under what conditions it would be appropriate to release the defendant back into the community.

Essential Element

The essential element of this protocol is:

- > Housing the defendant in a secure correctional facility until his first appearance before the court

Rationale

Defendants arrested for domestic violence related offenses often have an extensive history of domestic abuse. Frequency and severity of abuse tends to escalate over time. Detaining the defendant until initial appearance gives

the magistrate the opportunity to make a quick but impartial assessment of danger, after which, he/she can fashion a release order that addresses many of his/her concerns.



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Managing the Defendant Pre-trial

Practitioner Tips

Contact from the jail by the defendant, including phone calls or through a third party (see protocol 2B), prior to the victim receiving assistance, will have a chilling effect on whether she obtains assistance.

Housing the defendant until initial appearance creates a window of

opportunity that may allow a victim of domestic violence to seek or receive services that she would be unable to do under the watchful eye of the perpetrator. This is an excellent time to refer victims of domestic violence to services in the community.

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Managing the Defendant Pre-trial

PROTOCOL 2B:

Deny the Defendant Contact with the Victim Prior to Initial Appearance

Primary Objective

The primary objective of this protocol is to limit the ability of the defendant to make threats for the purposes of intimidating the victim from participating in the court process and inhibiting the victim from seeking aid from service agencies.

Essential Elements

The essential elements of this protocol are:

- > Detain defendant in a secure correctional facility until initial appearance
- > Deny defendant telephone access to the victim
- > Obtain a no-contact order where necessary
- > Have correctional staff warn the defendant that contacting the victim directly, by telephone or mail or through a third party, could potentially lead to further criminal liability

Rationale

By behavioral definition, domestic violence perpetrators engage in patterns of coercive and manipulative tactics to control their victims. The ability of perpetrators to make effective threats from the restrictive environment of jail underscores for victims of domestic violence that there are few, if any, safe harbors.

This ability has a demoralizing effect on victims of domestic violence. It allows perpetrators to poison the court process before the court process starts. It inhibits victims of domestic violence from seeking aid even though their perpetrators are in jail. Consequently, an opportunity for intervention is lost.

Practitioner Tips

See practitioner's tips from protocol 2A.



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Managing the Defendant Pre-trial

PROTOCOL 2C:

Employ a Judicial Checklist to Assist in Determining Release Conditions and Bail

Primary Objective

The primary objective of this protocol is setting a bail amount and crafting release conditions that are tailored to fit the dangers that perpetrators pose to their victims, themselves, and the community.

Essential Elements

The essential elements of this protocol are making the following inquiries:

- > Does the defendant have access to his victim(s)
- > Does the defendant have access to weapons
- > Are there children in the home
- > Is there a presence of separation violence
- > Has the defendant made homicidal or suicidal threats
- > Has the defendant fantasized of homicide or suicide
- > Does the defendant exhibit “ownership” of his partner
- > Has the defendant exhibited excessive dependence on his partner
- > Is the victim fearful
- > Does the defendant have a history of domestic violence
- > Has there been an escalation in frequency or severity of violence
- > Does it appear that the victim has serious injuries
- > Does the defendant have an extensive criminal history
- > Have there been prior protection, no-contact, and restraining orders
- > Have there been violations of any prior protection, no-contact and restraining orders
- > Does defendant have a history of sexual abuse
- > Does the defendant have a history of mental illness
- > Does the defendant have a history of substance abuse
- > Does it appear that children witnessed the violence
- > Does the defendant have a history of being cruel to animals



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Managing the Defendant Pre-trial

- > Does the defendant have a history of destroying his partner's property
- > Is the defendant currently depressed or does he have a history of depression
- > Does it appear that defendant is engaging in greater risk-taking behavior
- > Does it appear that the defendant is minimizing abusive behavior
- > Is there information from the victim(s), police, courts, witnesses as well as observations made by the probation officer regarding coercive, controlling or manipulative behavior

The above inquiries should assist the judge in determining court orders regarding:

- > Bail amount
- > Limiting contact with the victim
- > Surrendering weapons
- > Abstaining from drug or alcohol use
- > Submitting to drug and alcohol testing
- > Submitting to a mental health examination

Rationale

Danger to victims of domestic violence is frequently heightened during pre-trial proceedings. This is because many perpetrators do not wish to be held accountable by the criminal justice system. Escalation in the severity of violence and controlling behaviors should be anticipated during the pre-trial stage.

To counter this, the court should consider crafting releases that limit the defendants' access to either weapons or victims. In so doing, the court should consider the vulnerability of the victims as well as the defendant's past history.

Practitioner Tips

Courts should use clear and concise language when drafting judicial orders. For example, an order of limited contact should be structured to specify the time, method and manner where

contact is acceptable. Crafting ambiguous orders that permit reasonable or mutually agreeable contact should be avoided.



CHAPTER 2

Managing the Defendant Pre-trial

PROTOCOL 2D:

Notify the Victim of the Defendant's Release Conditions Prior to Release

Primary Objective

The primary objective of this protocol is to notify the victim of the defendant's release condition prior to the defendant's release.

Essential Elements

The essential elements of this protocol are:

- > Contacting the victim prior to the defendant's release
- > Advising her of the date and time the defendant is to be released
- > Advising her of the defendant's pre-trial conditions
- > Providing her with a copy of the release conditions upon her request
- > Warning her that the criminal justice system's ability to restrict the defendant's movements is limited.
- > Warning the victim that no guarantee can be given that the defendant will not make contact with her, her family, her friends or her place of employment

Rationale

Safety plans are frequently structured to limit the perpetrator's access to the victim(s). The need for victims to devise more complex plans of concealment is increased when perpetrators are released from correctional facilities.

In the alternative, many victims take steps to appease their perpetrator, rather than leave the relationship, in hopes that this will de-escalate the

violence. Regardless of her plan, warning the victim prior to the perpetrator's release reduces the chance that she will be caught off guard.

Moreover, being blunt about the criminal justice system's inability to effectively intervene may limit any false sense of security on the part of the victim.

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Practitioner Tips

If the victim has taken steps to conceal herself, it will be difficult for jail officials to contact her. For that

reason, this protocol requires only a good-faith effort by jail officials.



CHAPTER 2

Managing the Defendant Pre-trial

PROTOCOL 2E:

Review Conditions of Release with the Defendant and Explain Consequences of Noncompliance Prior to Release

Primary Objectives

The primary objectives of this protocol are to eliminate any misunderstanding by the defendant and to reinforce the expectations of the court.

Essential Elements

The essential elements of this protocol are:

- > Explain the general release conditions
- > Explain any specific court imposed conditions
- > Explain consequences of noncompliance with any of the conditions
- > Place special emphasis on what conduct will result in an arrest warrant being issued

Rationale

The value of explaining pretrial release conditions and consequences of noncompliance prior to release are: it quickly reinforces the message to the defendant that the court has both the authority and ability to compel the defendant to comply with release

conditions; it underscores the seriousness of domestic violence offenses; it gives the defendant prompt notice of what will not be tolerated and it limits the defendant's ability to claim that he did not understand the court order.



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Practitioner Tips

Besides explaining the pre-trial conditions and consequences of non-compliance with conditions of release, a short-term plan should be outlined for the defendant. That short-term plan

should include the time, date and place of the next court date and what is expected of the defendant prior to that time (i.e., obtaining a lawyer). Be specific.

CHAPTER 2

Managing the Defendant Pre-trial

PROTOCOL 2F:

Monitor Defendant's Compliance with Pre-trial Conditions

Primary Objective

The primary objective of this protocol is to ensure that the defendant complies with his provisions of release.

Essential Elements

The essential elements of this protocol are:

- > Designating criminal justice personnel responsible for monitoring pre-trial conditions
- > Obtaining a copy of the pre-trial release conditions
- > Creating and maintaining a file on the defendant
- > Explaining the release conditions and the consequences for noncompliance with the defendant
- > Meeting with the defendant on a weekly basis
- > Noting compliance, violations and other concerns in the file
- > Reporting any violations to the court
- > Warning the victim of dangers that come to the attention of the pre-trial release officer

Rationale

The value of court ordered release conditions is greatly diminished if there is no detection and consequence for failing to comply.

Without designating personnel to monitor compliance, the primary burden of reporting violations falls on

the victim. This puts the victim in the precarious position of deciding whether she would be in greater danger should she report any violations.

Designating personnel to monitor compliance reduces the victim's burden to report violations and



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decreases the number of instances where the victim has to decide whether

reporting violations will put her in greater danger.

Practitioner Tips

Pre-trial supervision often creates greater challenges than post-sentence supervision. First, less is known about the defendant at this stage. Second, the defendant is unlikely to be in treatment, so there will be one less set of eyes observing the defendant. Third and most importantly, the pre-trial period is a particularly dangerous time for domestic violence victims.

This is because perpetrators do not want to be held accountable by the criminal justice system. Frequently, perpetrators will employ more dangerous controlling behaviors during the pre-trial stage in order to thwart victim participation in the court process



CHAPTER 2

Managing the Defendant Pre-trial

PROTOCOL 2G:

Accelerate the Court Process

Primary Objective

The primary objective of this protocol is to expedite the court process.

Essential Elements

The essential elements of this protocol are:

- > Identify and tag domestic violence cases
- > Fast track or create a “rocket docket” for domestic violence cases
- > Limit grants of continuance except upon a showing of good cause
- > Set target completion dates

Rationale

Frequently, victims of domestic violence are in greater danger when there are charges pending against the perpetrator.

This is because perpetrators who do not want to be held accountable by the criminal justice system often will escalate their controlling behavior in an attempt to keep the victim from participating in the court process. This escalation may include increasing the severity of physical abuse.

By expediting the court process, the period of time where charges are pending and danger is frequently higher is shortened.

Additionally, by accelerating the court process, it gives the perpetrator less time to work on the victim’s willingness to participate. Consequently, prosecutors may be more likely to find victims willing to participate if the court moves quickly.

CHAPTER 2

Managing the Defendant Pre-trial

Practitioner Tips

Cases may arise where it would be reversible error for the court to deny a continuance -- for example, moving forward in a case where the potential sanction merits a right to counsel and the defendant has failed to secure an attorney.

The ability of the defendant to tie the court's hands may give the defendant a sense of power that he is likely to enjoy.

While the court should respect and enforce any of the defendant's legal rights, it is strongly encouraged that controlling behavior not be rewarded.

In such cases, the court may wish to explore alternative tactics (i.e. imposing more pre-trial conditions) that make it undesirable for the defendant to drag his feet or manipulate the court in some other fashion.

PROTOCOL 3A:

Specialize Domestic Violence Prosecution

Primary Objectives

The primary objectives of this protocol are to increase the prosecuting attorney's knowledge on the dynamics of domestic violence, domestic violence laws and rules of evidence.

Essential Elements

The essential elements of this protocol are:

- > Establish a well trained domestic violence prosecutorial unit in large jurisdictions
- > Ensure that there is a well trained lead domestic violence prosecutor in smaller jurisdictions
- > Provide training and technical assistance to law enforcement
- > Employ victim advocates
- > Develop effective information sharing practices

Rationale

Specialized prosecution will increase the repetition and experience of those attorneys assigned to domestic violence cases. By focusing their efforts, attorneys will become more familiar with the dynamics of domestic violence, applicable domestic violence

laws, and rules of evidence. Additionally, the attorneys will be able to draw from the knowledge of domestic violence advocates and be able to provide better technical assistance to law enforcement.

Practitioner Tips

CHAPTER 3

Aggressive Prosecution

See 3B



PROTOCOL 3B:

Use Vertical Prosecutions

Primary Objectives

The primary objectives of this protocol are to increase the prosecutor's familiarity with the facts of the case, the history of the perpetrator, and the wants and needs of the victim.

Essential Element

The essential element of this protocol is:

- > Designate one prosecutor who manages the case from start to finish

Rationale

Since one prosecutor manages the case from start to finish, he or she will be required to review the file before each court event. This repetition will make him/her more familiar with the facts of the case. Clarity and the ability to identify inconsistencies will also be increased by having the same prosecutor who reviews the police report also interview the victim, ask follow up questions of the investigating

officer and take statements from other witnesses.

Another benefit of vertical prosecution is that it limits duplicative efforts by other prosecuting attorneys who would have to acquaint themselves with the case regardless of whether they handled one court proceeding or several.

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Aggressive Prosecution

Practitioner Tips

Specialized prosecution and vertical prosecution can complement one another. Specialized prosecution increases the attorney's familiarity with the domestic violence law through repetition, whereas vertical prosecution increases the attorney's familiarity with the facts through repetition.

There are employing however, a few dangers in vertical prosecution. First, it limits the chances that a "fresh set of eyes" will review the case. Second, the ability, training, and diligence of the prosecutor in charge of the case becomes magnified. If the prosecutor in charge of the case is lacking in skill, knowledge or zeal, bad results are likely to become exacerbated.

PROTOCOL 3C:

***Brief Victims Before Hearings and Ensure that They
Have an Advocate in Court***

Primary Objective

The primary objective of this protocol is to ensure that the victim has current information and proper support so she can make informed decision regarding her level of participation in the court process.

Essential Elements

The essential elements of this protocol are:

- > Brief the victim on any change in the status of the case
- > Brief the victim on the criminal court process
- > Advise the victim of her rights
- > Inform the victim of what will happen with any information she discloses
- > Explain the purpose of the hearing at bar
- > Listen and respond to any questions or concerns the victim has
- > Explain what the victim's options are should the defendant violate any conditions of his release
- > Provide the victim an opportunity to give input on the case
- > Provide the victim an opportunity to meet with a victim advocate
- > Have an advocate present during court hearings
- > Encourage the victim to develop a safety plan

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Aggressive Prosecution

Rationale

During the pre-trial stage, victims are especially vulnerable to coercion, intimidation and violence aimed at obstructing them from participating in the court process. Briefing victims and providing them with current information and support allows victims an ongoing opportunity to weigh the risk of participating in the court process against the criminal justice

system's ability to intervene successfully.

Since safety is the number one goal, and since victims of domestic violence are generally the best judges of their own safety, prosecutors should keep them apprised of relevant information so victims can make informed decisions regarding their best interest.

Practitioner Tips

The above rationale brings up two issues that prosecutors may find troubling. The first is deferring to the victim's judgment as to what level of involvement on her part is best.

The second is the proposition that offender accountability can be outweighed by some other consideration. This may seem counterintuitive because holding offenders accountable not only satisfies

our desire for retribution, but also has a deterrent effect that increases future public safety.

Nevertheless, victim safety and offender accountability can be at odds. In such cases, the better public policy is to give priority to victim safety. Consequently, there will be times where prosecutors will have to exercise their professional judgment and limit their arsenal in bringing offenders to justice.

PROTOCOL 3D:

***Prepare for Cases Assuming that the Victim
Will Not Be Able to Testify***

Primary Objective

The primary objective of this protocol is to build a case through independent corroboration so that it is unnecessary for the victim to testify.

Essential Elements

The essential elements of this protocol are:

- > Use of 911 tapes or answering machine tapes
- > Use of excited utterances
- > Use of Smith affidavits
- > Use of medical or EMT records
- > Use of witnesses other than the victim
- > Use of photographs
- > Informing the fact finder of the abuser's power and control over the victim
- > Use of pre-trial motions in limine to obtain the court's assent regarding admissibility of definition of abuse, defendant's history of abuse, victim's out of court statements, voir dire questions, and to preclude inappropriate defense evidence

Rationale

This allows the victim to opt out of the court process when she believes that participating will place her in greater danger.

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Aggressive Prosecution

Practitioner Tips

The extent of power and control used by the perpetrator and its effects on victims of domestic violence should be emphasized during all phases of the trial.

This perspective is particularly important when the victim chooses not to testify or testifies on the

perpetrator's behalf. If the jurors cannot relate to the victim's level of fear, they will be unable to understand why the victim does not testify against the perpetrator. The end result will likely be that the jurors will blame the victim and excuse the perpetrator's conduct.

PROTOCOL 3E:

Establish an Aggressive Plea Policy

Primary Objectives

The primary objectives of this protocol are obtaining sentences that will stop the violence, send the message that domestic violence is a serious crime and ensure that the perpetrator accepts responsibility for his actions.

Essential Elements

The essential elements of this protocol are:

- > Requiring that the perpetrator pleads guilty (no Alfred pleas)
- > Requiring that the perpetrator completes a certified batterer's treatment program if the perpetrator is amenable to treatment
- > Requiring substance abuse treatment if there is a sufficient indication of drug or alcohol abuse
- > Requiring drug testing if there is a sufficient indication of drug or alcohol abuse
- > Requiring the perpetrator to make restitution for any damage
- > Requiring jail time if the offender is not amenable to treatment
- > Requiring jail or prison time when merited by the severity of the offense
- > Requiring jail or prison time when merited by the history of the perpetrator

Rationale

The objectives set forth in this protocol are based on the goals established by National Council of Juvenile and Family Court Judges. According to the Council, the seven goals of sentencing in domestic violence cases are: stopping the violence; protecting the victim, the children, and other family

members; protecting the general public; holding the batterer accountable for violent conduct; treating domestic violence as a serious crime; providing restitution to the victim; and rehabilitating the batterer.

These objectives cannot be achieved without substantial intervention.



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Aggressive Prosecution

Therefore, allowing defendants to plea guilty in exchange for minimal

conditions is generally a poor policy.

Practitioner Tips

Defense attorneys and even judges, on occasion, will portray domestic violence as a private family matter. They will use this reasoning in arguing for limited intervention.

Hold firm. Underscore that the seven goals listed by National Council of Juvenile and Family Court Judges

indicate that there is a significant state interest favoring substantial intervention.

Remember that securing the optimal sentence condition is often worth taking the risk of not obtaining a conviction.



PROTOCOL 4A:

***Review Conditions of Probation and Explain Consequences of
Noncompliance Immediately After Sentencing***

Primary Objectives

The primary objectives of this protocol are to immediately eliminate any misunderstanding by the probationer, immediately reinforce the expectations of the court to the probationer and place the probationer on notice regarding consequences of noncompliance.

Essential Elements

The essential elements of this protocol are:

- > Explain the general probation requirements
- > Explain any specific court imposed conditions
- > Explain consequences of noncompliance with the general probation requirements and any court imposed conditions
- > Place special emphasis on what conduct can result in revocation.
- > Explain the revocation process
- > Apprise the probationer of any potential jail time for violating the general probation requirements and specific court imposed conditions

Rationale

While this protocol can and should be performed by the presiding judge, duplicative efforts by the probation officer immediately after sentencing are beneficial because: courtrooms are intimidating and often probationers do not fully understand the judge's instructions; probationers often have difficulty comprehending court orders; probationers often equate the

seriousness of the offense with how quickly they are compelled to do something; research shows that cessation of domestic violence is most likely to occur when treatment and sanctions are imposed swiftly.

The value in explaining conditions of probation and consequences of noncompliance immediately after

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Probation

sentencing is that it: quickly reinforces the message to the probationer that the court has both the authority and ability to compel the probationer to comply with the sentencing conditions; creates an appearance of a coordinated response by the judge and probation officer; underscores the seriousness of

domestic violence offenses; gives the probationer prompt notice of what will and will not be tolerated; limits a probationer's ability to claim that he/she did not understand the court order; immediately conveys that the court will be holding the perpetrator accountable.

Practitioner Tips

Besides explaining what is required over the course of probation, a short-term plan should be outlined for the probationer. That short-term plan should include the time, date and place of the next meeting as well as what is expected of the probationer prior to that meeting.

Be specific. If it is documentation that the probationer is to provide at intake,

specifically identify those documents and information he needs to provide. If it is enrollment in a batterer's treatment program or substance abuse program, specifically explain the process for enrollment as well as what programs are acceptable. Finally, the probation officer should emphasize that the ultimate goal for the perpetrator is to stop his abusive behavior.



PROTOCOL 4B:

Contact the Victim Prior to Probation Intake

Primary Objectives

The primary objectives of this protocol are to disseminate and gather information and convey the message that the criminal justice system will hold the perpetrator accountable.

Essential Elements

The essential elements of this protocol are:

- > Inform the victim of the date of the probationer's release if the probationer is serving jail time
- > Inform the victim of sentencing conditions
- > Inform the victim of location(s) and telephone number(s) of the local domestic violence program
- > Inform the victim of the name, location and telephone number of the supervising agency
- > Inform the victim of the name and telephone number of the supervising officer
- > Inquire about any victim concerns
- > Inquire about whether the victim wishes to disclose information about the probationer, including accounts of abusive behavior by the probationer

Rationale

Although prosecutors and court based victim advocates can provide much of this information to the victim, it is important to stress safety and accountability throughout the entire criminal justice process. This benefits the victim by: emphasizing that the perpetrator, not the victim, is

responsible for the abusive behavior; validating the victim's perceptions that she was wronged; serving as a post-sentence assurance that probationers are being held accountable; creating an opportunity to refer the victim to domestic violence service agencies; assisting the victim in revising her

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safety plan based on changes that occur after sentencing; creating an opportunity for establishing a rapport with the victim; creating an

opportunity for the victim to provide information that will be useful in developing a supervision plan for the probationer; educating the victim on how the local probation system works.

Practitioner Tips

Before making any inquiries of the victim, explain your role as a probation officer and what information, if shared, must be disclosed to the courts. This not only respects a victim's autonomy and privacy but also enhances victim safety.

There will be occasions when the goal of victim safety and perpetrator accountability will be at odds. When this occurs, the preference is to choose

victim safety. Since victims of domestic violence know their batterers best and are the best judges of their own safety plans, it follows that victims should understand what happens with information prior to disclosure. If the victim indicates that she does not wish to disclose information, her wish should be respected (see chapter 1 for more information on *Interacting with Victims of Domestic Violence*).



PROTOCOL 4C:

Promptly Gather Offender Background Information

Primary Objective

The primary objective of this protocol is to promptly gather accurate information on the probationer that will assist the probation officer in developing a supervision plan for managing the offender.

Essential Elements

The essential elements of this protocol are:

- > Collect basic directory information on the probationer
- > Note the underlying charge
- > Obtain a copy of the police report
- > Obtain a copy of the judgment and sentence
- > Obtain a criminal history
- > Obtain a copy of prior or current no-contact, restraining or protection orders
- > Note if the probationer has a history of domestic violence assaults not included in the criminal history
- > Note if the probationer has a history of drug and alcohol abuse
- > Note probationer's education and employment history
- > Note any current mental problems and mental health history

Rationale

Prompt intake is essential because information gathered during intake is necessary for developing an effective supervision plan. If there are delays in collecting this information, a window of time is created where no effective supervision plan can be in place. Lack of information during the early stages

of probation can create barriers for probation officers. For example, should the probationer violate his conditions early during the probation term, such basic information as home or work address is useful for the

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purposes of serving a warrant. While this information is likely to be available in court records, relying

solely on those records creates an additional obstacle that could slow down the revocation process.

Practitioner Tips

It is important that the information gathered is reliable. Since probationers have a vested interest in what they disclose and how they disclose it, the probation officer should be in the practice of corroborating any key information with an objective party.

Because cases are not static, some information will change. It is recommended that the probation officer be in the habit of making

collateral contacts to stay abreast of changes. If intake can be performed immediately after sentencing, it can be done in conjunction with protocol 6A.

If the offender was supervised pre-trial or if a pre-sentence investigation report has been completed, much of this information may have already been gathered; consequently, collecting all of the above information may not be necessary.



PROTOCOL 4D:

***Maintain Weekly In-Person Contact with the Probationer
During the First Three Months of Supervision***

Primary Objectives

The primary objective of this protocol is to emphasize that domestic violence behavior merits frequent supervision, it creates an opportunity for early detection and correction of noncompliance, and it provides the probation officer sufficient time to assess the appropriate level of supervision.

Essential Elements

The essential elements of this protocol are:

- > Observing and documenting any controlling, coercive or manipulative behaviors
- > Assessing danger that the probationer poses to the victim, to himself and to the community
- > Ensuring that the probationer is enrolled and participating in a batterer's treatment program
- > Documenting progress toward completion of any court order conditions
- > Counseling the probationer
- > Reporting to the court any violation of probation conditions

Rationale

Weekly contact is beneficial during the first three months because it: sets the tone that domestic violence is a serious offense and therefore the probationer's conduct will be closely scrutinized; provides the probation officer sufficient opportunity to observe the perpetrator; provides the probationer

immediate and regular direction; provides the probationer immediate and regular motivation; significantly increases the probation officer's ability to detect noncompliance with conditions of probation; decreases any misunderstanding by the probationer.

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Practitioner Tips

One strategy of effective case management is to focus on those who pose the greatest risk. Because predicting risk is difficult, relying solely on risk assessment tools is not advised. This is especially true in domestic violence cases.

Frequent contact during the first three months of supervision provides the probation officer an opportunity to observe the probationer's behavior, attitude and willingness to comply

with conditions.

Additionally, close monitoring during the early stages may bring to light facts that were unknown at the time of sentencing.

After three months, the probation officer should apply his/her training, experience, and judgment in conjunction with checklist set forth in protocol 6E to determine whether supervision should be reduced



PROTOCOL 4E:

***Weekly Contact Should Continue When
Significant Risk Factors Are Present***

Primary Objective

The primary objective of this protocol is to monitor probationers in proportion to the risk they pose to their victims, themselves and the community.

Essential Elements

The essential elements of this protocol are incorporating the following factors into the risk assessment:

- > Does the probationer have access to his victim(s)
- > Does the probationer have access to weapons
- > Are there children in the home
- > Is there a presence of separation violence
- > Has the probationer made homicidal or suicidal threats
- > Has the probationer fantasized of homicide or suicide
- > Does the probationer exhibit “ownership” of the battered partner
- > Has the probationer exhibited excessive dependence on the battered partner
- > Is the victim fearful
- > Does the probationer have a history of domestic violence
- > Has there been escalation in frequency or severity of violence
- > Has the probationer inflicted serious injuries
- > Does the probationer have an extensive criminal history
- > Have there been prior protection, no-contact and restraining orders
- > Have there been violations of any prior protection, no-contact and restraining orders
- > Does the probationer have a history of sexual abuse
- > Does the probationer have a history of mental illness
- > Does the probationer have a history of substance abuse
- > Have children witnessed the violence
- > Has the probationer been cruel to animals

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- > Does the probationer have a history of destroying partner's property
- > Is the probationer currently depressed or does he have a history of depression
- > Is the probationer engaging in greater risk taking behavior
- > Is the probationer minimizing or denying abusive behavior
- > Is there information from the victim(s), police, courts, witnesses as well as observations made by the probation officer regarding coercive, controlling or manipulative behavior

Rationale

Public policy favors victim safety over rewards for compliant perpetrators. Therefore, if significant safety concerns exist, the level of supervision

should not be reduced regardless of the perpetrator's performance while on probation.

Practitioner Tips

A probation appointment at a scheduled time and location gives the probationer notice as to when he needs to be on his best behavior. His conduct at such meetings is probably not indicative of his normal behavior. Contacts in the community by either the probation officer or a police officer will more accurately reflect the probationer's true behavior. Where concerns for public and victim safety weigh heavily, the probation officer should

consider performing or coordinating with police field contacts.

The probation officer should also consider making collateral contacts. Remember, probationers have a vested interest in what is disclosed. While employers, coworkers, friends and family members are not disinterested parties, they are not subject to the same consequences as the probationer and therefore, may be more truthful than the probationer.



PROTOCOL 4F:

Supervision May Be Reduced to Bi-weekly Contact Where Risk Appears Minimal and a Solid Record of Probation Compliance Has Been Established

Primary Objective

The primary objective of this protocol is to reward perpetrators who establish a solid record of compliance without sacrificing public safety.

Essential Elements

The essential elements of this protocol are:

- > An absence of red flags listed in protocol 4E
- > A minimum of three consecutive months of complying with all probation requirements
- > Meaningful participation in a certified batterer's treatment program

Rationale

While public policy favors victim safety over rewards for compliant perpetrators; in those cases where red flags are absent, a perpetrator should be rewarded if he is compliant with

probation conditions and he is making progress in his batterer's treatment program. This practice will serve as an incentive for perpetrators to change their behavior.

Practitioner Tips

Reducing supervision in cases where there is an absence of red flags and solid compliance by the probationer can enhance case management. By

devoting less time to certain offenders, probation officers can focus more on their problematic probationers.

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However, if red flags appear after an offender's supervision level has been

reduced, his supervision level should immediately be adjusted upward.



PROTOCOL 4G:

***Share Offender Background Information with Batterer
Treatment Providers Prior to Treatment Intake***

Primary Objectives

The primary objectives of this protocol are giving the treatment provider the ability to verify the accuracy of the batterer's account at the time of treatment intake and assisting in the early development of an effective treatment plan for the batterer.

Essentials Elements

The essential elements for this protocol are:

- > Providing basic directory information on the batterer to the treatment provider
- > Providing a copy of the police report to the treatment provider
- > Providing a copy of the judgment and sentence to the treatment provider
- > Providing a copy of the criminal history to the treatment provider
- > Providing a copy of any prior or current no-contact, restraining or protection orders to the treatment provider
- > Informing the treatment provider if the probationer has a history of substance abuse
- > Informing the treatment provider if the probationer has a history of mental health problems

Rationale

The reason for providing the above information prior to treatment intake is so the treatment provider can assess the probationer's veracity during intake. If there are considerable discrepancies between the probationer's account and

the official record, it will give the treatment provider the opportunity to confront the probationer and will enhance the provider's ability to develop an effective treatment plan.

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Practitioner Tips

If the agency or agencies responsible for distributing information to treatment providers is one other than the probation department, the probation officer should confer with the treatment provider regarding the completeness and accuracy of the information provided. This should be done early during the probationary period.

Regardless of whether the probation department provided the above information, periodic communication with the treatment provider should be maintained because the above information is often fluid and may change during the course of supervision and treatment.

PROTOCOL 4H:

Strictly Enforce Batterer's Treatment

Primary Objective

The primary objective of this protocol is to reward only those batterers who are making a profound attempt to stop their abusive behavior.

Essential Elements

The essential elements of this protocol are:

- > Cessation of abusive acts
- > Acknowledgement of past abusive behavior
- > Accepting responsibility for past abusive behavior
- > Written documentation from the treatment provider that illustrates a significant attempt by the probationer to modify his behavior
- > Violation of probation for failure of the above elements

Rationale

Apart from denying the offender access to his victims, victim safety can only be achieved if the offender modifies his abusive behavior.

Practitioner Tips

Since the ultimate goal for perpetrators is to modify their behavior so that they are not abusive toward their partners and/or children, the probation officer should establish clear lines of communication with the treatment provider and develop a team approach toward motivating the probationers to modify their behavior.

This should include regular oral and written communication between the probation officer and the treatment provider. At times the communication will need to be in narrative form and specifically address what segments of treatment the probationer has participated in, whether it was satisfactory and why.

PROTOCOL 4I:

Expedite Revocations

Primary Objective

The primary objective of this protocol is to decrease the danger the non-compliant probationer poses to the victim by quickly terminating his probation.

Essential Elements

The essential elements of this protocol are:

- > Document any non-compliance with conditions of probation
- > Immediately notify and forward any required information necessary for revocation to the sentencing judge when there is evidence of new abuse
- > Immediately notify and forward any required information necessary for revocation to the sentencing judge when the batterer has committed a new crime
- > Immediately notify and forward any required information necessary for revocation to the sentencing judge when the batterer has more than one unexcused absence from batterer's treatment.
- > Immediately notify and forward any required information necessary for revocation to the sentencing judge when the batterer has been disruptive in treatment or refuses to participate actively
- > Immediately notify and forward any required information necessary for revocation to the sentencing judge when the batterer has been detected violating any drug or alcohol conditions
- > Notify and forward any required information necessary for revocation when there is a pattern of technical violations.
- > Notify the batterer of the reason for initiating the revocation process and inform him of his scheduled court date, time and place

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Rationale

Probationers who commit new abuse simply affirm that they pose danger to their victims. Like probationers who commit other new crimes or continue to abuse substances, they also demonstrate a willingness to engage in greater risk taking behavior by ignoring the fact that a probation officer is scrutinizing their behavior.

Since court conditions should be tailored to address danger, especially immediate danger, affirmation of danger or willingness to engage in greater risk taking behavior by the

batterer should be quickly reported to the court so the court can assess what additional conditions or sanctions are necessary to protect the victim.

Lack of participation or disruptive behavior during batterer's treatment frequently indicates that the batterer is unwilling to stop his abusive behavior. Since cessation of violence is the ultimate goal, the court should be kept closely apprised when the batterer refuses to participate or is disruptive during treatment.

Practitioner Tips

Notify the victim before the revocation process is initiated. Any change in the batterer's legal status has potential negative consequences for the victim and she may need to adjust her safety accordingly. Additionally, it gives her the opportunity to voice any current concerns she has regarding the batterer.

As noted in protocol 4H, clear lines of communication need to be established between the probation officer and the

treatment provider. Underscoring this importance is the fact that treatment providers generally have more contact with the batterer than probation officers; plus they are charged with the duty of monitoring the batterer's treatment progress. Therefore, the treatment provider is usually in a better position to detect and document new abuse.

PROTOCOL 5A:

Contact the Victim Prior to Offender's Release from Prison

Primary Objectives

The primary objectives of this protocol are to warn the victim of the offender's release, provide the victim the opportunity to give input into the community supervision plan, and convey the message that the criminal justice system will hold the perpetrator accountable.

Essential Elements

The essential elements of this protocol are:

- > Inform the victim of the date and time of the offender's release
- > Inform the victim if the offender will be residing in close proximity to her
- > Inform the victim of the general conditions of community supervision
- > Inform the victim of any court imposed conditions on the offender
- > Inform the victim of any DOC imposed conditions on the offender
- > Inform the victim of location(s) and telephone number(s) of the local domestic violence program
- > Inform the victim of the name, location and telephone number of the supervising agency
- > Inform the victim of the name and telephone number of the supervising officer
- > Inquire if she has any concerns
- > Inquire about whether the victim wishes to disclose information about the offender, including accounts of abusive behavior by the offender

Rationale

This emphasizes that the perpetrator, not the victim, is responsible for the abusive behavior; validates the victim's perceptions that she was wronged;

conveys the message that the offender will be held accountable during community supervision; creates an opportunity to refer the victim to



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Felony Community Supervision

domestic violence service agencies; assists the victim in revising her safety plan by informing her that the defendant is being released from prison; creates an opportunity for

establishing a rapport with the victim; creates an opportunity for the victim to provide information that will be useful in developing a supervision plan for the offender; and educates the victim on how felony community supervision works.

Practitioner Tips

Before making any inquiries, explain your role as a community corrections officer. Inform her what information, if any, can be kept in confidence. This not only respects a victim's autonomy and privacy but also enhances victim safety.

There will be occasions when the goal of victim safety and perpetrator accountability will be at odds. When this occurs, the preference is to choose victim safety.

Since victims of domestic violence know their batterers best, and are the

best judges of their own safety plans, it follows that victims should understand what happens with information prior to disclosure. If the victim indicates that she does not wish to disclose information, her wish should be respected (see chapter 1 for more information on *Interacting with Victims of Domestic Violence*).

If the offender is transferred to a non-secure correctional facility prior to release from prison, the victim should be notified of this prior to transfer.

PROTOCOL 5B

Input Provided by Victims of Domestic Violence Shall Be Considered in Determining Supervision Level and Structure

Primary Objectives

The primary objectives of this protocol are to incorporate victim safety concerns into the supervision plan and to give victims a voice in the criminal justice process.

Essential Elements

The essential elements of this protocol are:

- > Contact the victim and ask her if she has any safety concerns
- > Ask her if she is willing to share those concerns
- > Ask her if she willing to recount any incidents of domestic violence by the offender
- > Ask her if she is willing to verify whether any of the danger signals listed in protocol 5C are present.

Rationale

Providing the victim an opportunity to share her safety concerns, recount the abuse and verify danger signals strengthens her voice in the criminal justice process.

Additionally, victims of domestic violence can be an excellent source of information to the supervising officer. This is in part because victims in

intimate relationships usually have spent more time with the offender than almost anyone else. Consequently, they are often privy to information about the offender not known to anyone else. This information, if shared by the victim, can significantly improve the supervising officer's ability to develop an effective supervision plan.



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Felony Community Supervision

Practitioner Tips

Participation should not be forced. If the victim elects not to disclose information or is hesitant to do so, it is often predicated on her belief that doing so will put her in greater danger.

Coercing the victim into sharing information also re-victimizes her through controlling tactics now being applied by professionals within the criminal justice system.

PROTOCOL 5C:

***Risk Assessment Instruments Shall Incorporate Danger Signals
Associated with Domestic Violence***

Primary Objective

The primary objective of this protocol is to craft community supervision plans that are tailored to reduce dangers that domestic violence offenders pose to their victims.

Essential Elements

The essential elements of this protocol are incorporating the following factors into the risk assessment tool:

- > Does the offender have access to his victim(s)
- > Does the offender have access to weapons
- > Are there children in the home
- > Is there a presence of separation violence
- > Has the offender made homicidal or suicidal threats
- > Has the offender fantasized of homicide or suicide
- > Does the offender exhibit “ownership” of the battered partner
- > Has the offender exhibited excessive dependence on the battered partner
- > Is the victim fearful
- > Does the offender have a history of domestic violence
- > Has there been an escalation in frequency or severity of violence
- > Has the offender inflicted serious injuries
- > Does the offender have an extensive criminal history
- > Have there been prior protection, no-contact and restraining orders
- > Have there been violations of any prior protection, no-contact and restraining orders
- > Does the offender have a history of sexual abuse
- > Does the offender have a history of mental illness
- > Does the offender have a history of substance abuse
- > Have children witnessed the violence
- > Has the offender been cruel to animals



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- > Does the offender have a history of destroying partner's property
- > Is the offender currently depressed or does he have a history of depression
- > Is the offender engaging in greater risk-taking behavior
- > Is the offender minimizing or denying abusive behavior
- > Is there information from the victim(s), police, courts, witnesses as well as observations made by the probation officer regarding coercive, controlling or manipulative behavior

Rationale

Incorporating the above factors into a risk assessment tool is consistent with the newly enacted Offender Accountability Act. One of the cornerstones of the Offender Accountability Act is to craft supervision plans based on risk assessments.

The Offender Accountability Act provides that "Risk Assessment" means . . . taking into consideration the nature of the harm done by the offender . . . the offender's relationship

to any victim and any information provided to the department by the victim."

By using the aforementioned language, the legislature made it clear that the offender's relationship to the victim is central to any risk assessment and that victim input is to be given high priority. Consequently, any risk assessment in domestic violence cases should consider the safety concerns and fears of the victim as well as any warning signs.

Practitioner Tips

The Offender Accountability Act gives the Department of Corrections greater authority to impose affirmative conditions on offenders

Consequently, offenders who commit felony crimes after its effective date

will be subject to greater discretion regarding treatment and supervision practices. In other words, community correctional officers will be able to exercise their professional judgement with more frequency in the future.

PROTOCOL 5D:

***Review Conditions of Community Supervision and Explain
Consequences of Noncompliance Prior to Release from Prison***

Primary Objectives

The primary objectives of this protocol are to immediately eliminate any misunderstanding regarding the rules and structure of community supervision, reinforce the expectations of the court, and to place the offender on notice regarding consequences of noncompliance.

Essential Elements

The essential elements of this protocol are:

- > Explain the general rules of community supervision requirements
- > Explain any specific court imposed conditions
- > Explain any specific Department of Corrections (DOC) imposed conditions, including the level of supervision
- > Explain how the level of community supervision can increase or decrease
- > Explain the consequences of noncompliance with the general supervision requirements, specific court imposed conditions and specific DOC conditions
- > Explain the revocation process
- > Place special emphasis on what conduct can result in return to prison
- > Apprise the offender of any potential prison time for violating community supervision

Rationale

During incarceration the offender becomes familiar with the rules and structure of prison life. The structure of community supervision is dramatically different in terms of the

level of monitoring the offender, ability to detect rule violations and swiftness in responding to violations.



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Orienting the offender to the community supervision plan prior to release helps limit misunderstanding on the part of the offender. It underscores to the offender that while the rules and structure may vary, they still exist and there will be consequences for noncompliance.

Practitioner Tips

If the offender is not required to serve any time in prison or has completed his prison sentence, the community supervision plan should be explained to the offender either immediately after sentencing or immediately before release from jail.

Besides explaining what is required over the course of community supervision, a short-term plan should be outlined for the offender. That short-term plan should include the time, date and place of the next meeting as well as what is expected of the offender prior to that meeting.

Going over the supervision plan prior to release quickly reminds the offender of any conditions that the court still expects to be fulfilled and serves notice to the offender of any additional conditions placed on him by DOC.

Be specific. If it is documentation that the offender is to provide, specifically identify those documents and information he needs to provide. If it is enrollment in a batterer's treatment program or substance abuse program, specifically explain the process for enrollment as well as what programs are acceptable.

Finally, the community correction officer should emphasize that the ultimate goal for the perpetrator is to stop his abusive behavior.

PROTOCOL 5E:

***Community Supervision Shall Include
Field and Collateral Contacts***

Primary Objective

The primary objective of this protocol is to enhance the ability of community correction officers to detect violations of community supervision by the domestic violence offenders.

Essential Elements

The essential elements of this protocol are:

- > Checking up on the offender at his place of residence
- > Checking up on the offender at his place of employment
- > Checking up on the offender at other places in the community where he has been granted permission to go
- > Contacting any treatment providers about treatment progress and offender behavior
- > Contacting family friends, neighbors and employers regarding the offender and inquiring about the offender's behavior

Rationale

An office visit by the offender at a scheduled time and location gives the offender notice as to when he needs to be on his best behavior. His conduct at such meetings is probably not indicative of his normal behavior. Contacts in the community by either the community correction officer or a police officer will more accurately reflect the offender's true behavior.

Collateral contacts should also be made because the offender has a vested interest in what is disclosed. While employers, coworkers, friends, family and neighbors are not disinterested parties, they are not subject to the same consequences as the offender and, therefore, may be more truthful than the offender.



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Practitioner Tips

Where concerns for public and victim safety weigh heavily, the community correction officer should consider

performing or coordinating field contacts with police officers.



PROTOCOL 5F:

***Share Offender Background Information with Batterer
Treatment Providers Prior to Treatment Intake***

Primary Objectives

The primary objectives of this protocol are giving the treatment provider the ability to verify the accuracy of the batterer's account at the time of treatment intake and assisting in the early development of an effective treatment plan for the batterer.

Essentials Elements

The essential elements for this protocol are:

- > Providing basic directory information on the batterer to the treatment provider
- > Providing a copy of the police report to the treatment provider
- > Providing a copy of the judgment and sentence to the treatment provider
- > Providing a copy of the criminal history to the treatment provider
- > Providing a copy of any prior or current no-contact, restraining or protection orders to the treatment provider
- > Informing the treatment provider if the offender has a history of substance abuse
- > Informing the treatment provider if the offender has a history of mental health problems

Rationale

The reason for providing the above information prior to treatment intake is so the treatment provider can assess the probationer's veracity during intake. If there are considerable discrepancies between the probationer's account and

the official record, it will give the treatment provider the opportunity to confront the probationer and will enhance the provider's ability to develop an effective treatment plan.



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Practitioner Tips

If the agency or agencies responsible for distributing information to treatment providers is one other than DOC, the community correction officer should confer with the treatment provider regarding the completeness and accuracy of the information provided. This should be done early during the community supervision

period. Regardless of whether DOC provided the above information, periodic communication with the treatment provider should be maintained because the above information is often fluid and may change during the course of supervision and treatment.

PROTOCOL 5G:

Strictly Enforce Batterer's Treatment

Primary Objective

The primary objective of this protocol is to reward only those batterers who are making a profound attempt to stop their abusive behavior.

Essential Elements

The essential elements of this protocol are:

- > Cessation of abusive acts
- > Acknowledgement of past abusive behavior
- > Accepting responsibility for past abusive behavior
- > Written documentation from the treatment provider that illustrates a significant attempt by the probationer to modify their behavior
- > Violation of community supervision for failure of above elements

Rationale

Apart from denying the offender access to his victims, victim safety can only be achieved if the offender modifies his abusive behavior.

Practitioner Tips

Since the ultimate goal for perpetrators is to modify their behavior so that they are not abusive toward their partners and/or children, the community correction officer should establish clear lines of communication with the treatment providers and develop a team approach toward motivating the probationers to modify their behavior.

This should include regular oral and written communication between the probation officer and the treatment provider. At times the communication will need to be in narrative form and specifically address what segments of treatment the probationer has participated in, whether it was satisfactory and why.



PROTOCOL 5H:

Expedite Revocations

Primary Objective

The primary objective of this protocol is to decrease the danger non-compliant offenders pose to their victims by quickly terminating their community supervision.

Essential Elements

The essential elements of this protocol are:

- > Document any non-compliance with conditions of community supervision
- > Immediately notify and forward any required information necessary for revocation to the proper court, hearing officer or parole board when there is evidence of new abuse
- > Immediately notify and forward any required information necessary for revocation to the proper court, hearing officer or parole board when the batterer has committed a new crime
- > Immediately notify and forward any required information necessary for revocation to the proper court, hearing officer, or parole board when the batterer has more than one unexcused absence from batterers' treatment.
- > Immediately notify and forward any required information necessary for revocation to the proper court, hearing officer, or parole board when the batterer has been disruptive in treatment or refuses to participate actively
- > Immediately notify and forward any required information necessary for revocation to the proper court, hearing officer, or parole board when the batterer has been detected violating any drug or alcohol conditions
- > Notify and forward any required information necessary for revocation when there is a pattern of technical violations.
- > Notify the batterer of the reason for initiating the revocation process and inform him of his scheduled court date, time and place

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Rationale

Offenders who commit new abuse simply affirm that they pose danger to their victims. Like offenders who commit other new crimes or continue to abuse substances, they also demonstrate a willingness to engage in greater risk taking behavior by ignoring the fact that a community supervision officer is scrutinizing their behavior.

Since conditions imposed by DOC should be tailored to address danger, especially immediate danger, affirmation of danger or willingness to engage in greater risk taking behavior by the offender should be quickly reported to the proper court, hearing

officer, or parole board so that the proper court, hearing officer or parole board can assess what additional conditions are necessary to protect the victim.

Lack of participation or disruptive behavior during batterer's treatment frequently indicates that the batterer is unwilling to stop his abusive behavior. Since cessation of violence is the ultimate goal, the proper court, hearing officer, or parole board should be kept closely apprised when the batterer refuses to participate or is disruptive during treatment.

Practitioner Tips

Notify the victim before the revocation process is initiated. Any change in the batterer's legal status has potential negative consequences for the victim and she may need to adjust her safety plan accordingly. Additionally, it gives her the opportunity to voice any current concerns she has regarding the batterer.

As noted in protocol 5G, clear lines of communication need to be established between the community correction

officer and the treatment provider. Since treatment providers are charged with the duty of monitoring the batterer's treatment progress, the treatment provider may be in a better position to document the offender's unwillingness to cease his abusive behavior. This documentation, especially in cases where there is new abuse, makes it worthwhile to develop clear lines of communication with the treatment provider.



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