

**BEST PRACTICES
OFFENDER ACCOUNTABILITY:
HOW CAN A COURT RESPOND?**

Judge Roberto Cañas, Jr.,
Presiding Judge, County Criminal Court No. 10
Dallas, Texas
Emerge Conference, September 20th, 2017

Learning Objectives

- *Define evidence based best practices in handling domestic violence cases to enhance offender accountability*
- *Describe practical strategies and lessons learned from Dallas*
- *Explore ways in which to apply the evidence based best practices in your own courts and in collaboration with stakeholders.*

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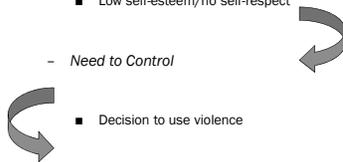
**WHAT DO WE MEAN BY
ACCOUNTABILITY?**

Accountability

- How a court stresses accountability
- 1. Confront the perpetrator's cognitive distortions
- 2. Show leadership through education
- 3. Guilty pleas
- 4. Affirmative finding of domestic violence
- 5. Use of BIPP over anger management

Batterers Intervention and Prevention Programs (BIPP)

- Focuses batterers on their issues.
 - Low self-esteem/no self-respect
 - Need to Control
 - Decision to use violence



Batterers Intervention and Prevention Programs (BIPP)

- Teaches self- respect
 - Honesty → Accountability =
 - Admitting it
 - Apologizing for it
 - Making amends for it





Barbara Hart's Wisdom

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

Accountability

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

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

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

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

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How and why courts and BIPPS work together

1. BIPPs can't enforce orders
2. BIPPs ability to protect the victim is limited and indirect
3. Counseling alone won't work
4. Courts can't educate
5. Punishment alone won't work
6. BIPPs are better monitors

Accountability: National Survey

Groundwork for an Accountability Model:

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

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

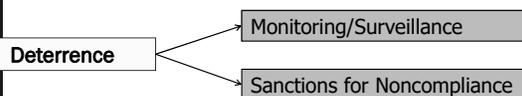
Problems of Implementation

- **Intensity of Judicial Monitoring:** Although 62% of courts employ judicial monitoring, only 32% hold a first compliance date within 4 weeks of disposition.
- **Re-calendaring:** Only 26% of courts report re-calendaring the case within two weeks of a report of noncompliance.
- **Written Protocol:** Only 12% of courts report having a written protocol defining how to respond to noncompliance
- **Sanction Certainty:** Only 33% of courts report always imposing a sanction for noncompliance (and specific sanctions often include no more than verbal admonishment)

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

CAN EFFECTIVE OFFENDER
ACCOUNTABILITY MEASURES
DETER RECIDIVISM?

Elements of Offender Deterrence



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Monitoring/Surveillance

- ☒ **Surveillance:** Judicial or probation monitoring does not deter recidivism in itself (e.g., Petersilia 1999; Sherman et al. 1997; Taxman 2002)
- ✓ **Sanctioning Tool:** Monitoring provides frequent opportunities to establish a credible threat of sanctions for noncompliance (or to impose sanctions if needed)

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Key Research Findings

- **Certainty:** Most critical element of *interim* sanctions
- **Expectation of Certainty:** Certain sanctions cannot deter noncompliance if offenders do not expect them:
 - Formal sanctions schedule (written and handed to offenders)
 - More CJ agents note consequences of noncompliance
 - More CJ agents express that consequences will be severe
 - More times when offenders must promise to comply

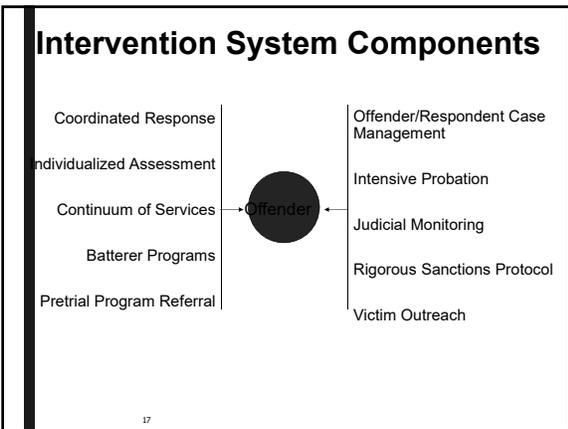
Innovative Strategies: Deterrence

- "Judge Knows It All"
- Compliance Reports: what information is on them?
- Courtroom Theater: scheduling of compliance calendar
- Who is in the courtroom and why might you be needed?
- Creative Sanctioning to respond to the individual offender
- DV probation conditions and BIP policies
- Court technology to share compliance information

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How is accountability related to victim safety?

- Accountability is about VICTIM SAFETY at its core!
(or at least it should be)
- Strategies for victim center approaches:
 - Probation or BIP providers take extensive free 40 hour vt training
 - Sensitive victim interview critical
 - Shift from gathering to providing information
 - Restorative Policies
 - Multidisciplinary review teams



WHAT ABOUT RISK AND NEEDS?

Risk-Need-Responsivity Model

- Developed in Canada in the 1980s.
- Supported by three decades of research and over 300 original studies with a wide range of offender populations (though not DV-specific).
- Widely embraced by correctional treatment experts across North America, Europe, and Australia.
- Shows that evidence-based treatment exists and can yield sizable impacts (up to 30-point recidivism reductions in some studies).
- Composed of three core principles.

1. The Risk Principle

- **Risk Principle:** *Vary supervision and treatment intensity by risk level.*
 - High-Risk: *Provide intensive intervention.*
 - Low-Risk: *Avoid over-programming or placing in group sessions with high-risk offenders*

2. The Need Principle

- **Need Principle:** *Assess and treat "criminogenic" needs—defined as those needs that, if unmet, will lead to ongoing criminal offending.*

Information on Risk and Need

- **General: "Central Eight" Criminogenic Factors:**
 1. History of criminal behavior (STATIC)
 2. Antisocial personality
 3. Criminal thinking (anti-social beliefs and attitudes)
 4. Antisocial peers
 5. Family or marital problems
 6. School or work problems
 7. Lack of pro-social leisure/recreational activities
 8. Substance abuse
- **DV Specific Risk Factors:**
 - Recidivism
 - Lethality

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What About Other Needs?

- **Non-Criminogenic Needs**
 - Examples:
 - Medical needs
 - Trauma history
 - Depression, anxiety, and other mental health disorders
 - Why Assess and Treat:
 - Problems such as trauma, if not addressed, may lead treatment for criminogenic needs to be ineffective—though only addressing trauma likely will not reduce recidivism

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3. The Responsivity Principle

- **Responsivity Principle:** Use cognitive-behavioral approaches adapted to the specific needs, learning style, strengths, and other attributes of the offender.
 - General Responsivity: Cognitive-behavioral approaches
 - Specific Responsivity: Tailor to offender; "one size fits all" will not address offender-specific needs and attributes

Innovative Strategies: Treatment/Programming to Respond to Risk and Needs

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

Dallas Model

- Collaboration with stakeholders is key
- Vetting of programs
- Creative sanctioning to respond to accountability and victim safety in each particular case
- Responding to the defendant in front of you, NOT the defendant you want him to be in the future
- Managing caseload to enhance victim safety
- Identify a process/agency for monitoring BIPs
- Involve victim advocates/centers in planning

What About Judicial Leadership and Procedural Fairness?



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Judicial Leadership and Procedural Justice Considerations

- Judicial Demeanor
- Full understanding of the case by litigants
- Litigants offered opportunity to be heard
- Courtroom environment
- Victim Input/Procedures
- Allocution
- Consistency
- LEP Innovations

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The Role of Procedural Justice

- **Procedural justice** concerns the perceived fairness of court procedures and interpersonal treatment while a case is processed.



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Procedures v. Outcomes

- **Most people don't like to lose**
- **Procedural justice theory assumes that:**
 - People know they will sometimes lose
 - People will be more likely to accept losing if they:
 - Perceive the process was fair.
 - Believe they were treated with dignity and respect.
 - Had a chance to be heard.

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Procedural Justice Dimensions

- **Voice:** Participants' side is heard
- **Respect:** Treated with dignity and respect
- **Neutrality:** Decisions unbiased and consistent
- **Understanding:** Participants understand responsibilities, decisions, and reasons for decisions

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Research Findings

- **Compliance:** Increases compliance with court orders and reduces future crime
(e.g., Lind et al. 1993; Tyler and Huo 2002)
- **Aid to Deterrence:** Complements deterrence by reducing perceptions of unfair consequences
- **Role of the Judge:** Greatest influence; linked to recidivism reduction
(Abuwala & Farole 2008; Lee et al. 2013; Frazer 2006; Rossman et al. 2011)

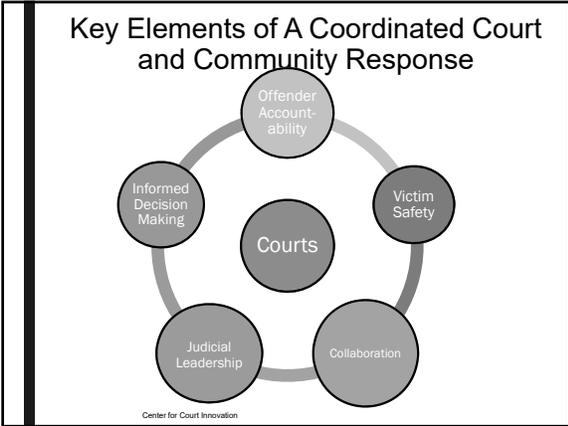
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Collaboration

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

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



Creating a Shared Philosophy or Mission

To enhance offender accountability and victim safety by improving collaboration between the court and community partners and reduce fractured and inconsistent responses to domestic violence and sexual assault.

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- ### Enhance Court Response: Collaboration
- Coordination of victim services
 - Multi-disciplinary teams
 - Inter-court collaboration
 - Meetings hosted by various team members
 - On-going training and stakeholder meetings
 - Safety Audit (Praxis) and DV Court Self-Assessment (Center for Court Innovation)
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Courts and Collaboration

- Create a team to create policies and procedures to assist and increase the safety of victims of domestic violence:
 - Judges and court administrators
 - criminal and civil attorneys,
 - local victim service organizations,
 - social service programs (such as BIPs, mental health, substance abuse),
 - probation
 - supervised visitation
 - child welfare
- Convene regularly to discuss the issues and development of protocols

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Addressing Victim Safety Concerns:

How can the court be part of the response?

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Enhanced Court Response: Victim Safety

- Court orders and Dispositions: including focus on firearms law implementation
- Understanding the services offered in community
- Have resources for victims available → hotline numbers, pamphlets, on-site advocate
- Courthouse Safety
- Information sharing where possible between agencies
- Understanding risk factors

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If we do it right...

How well are victims served by DV courts?

- In Hennepin County, MN, 87% of victims were satisfied or very satisfied with the court and the judge.
- In Quincy, MA and Shelby County, TN, approximately three-quarters of victims were satisfied with the handling of their case. In Shelby, the same proportion reported that the way the court handled the case made them feel safe.
- A majority of victims in Quincy, MA reported that the D.V. court experience gave them a sense of control.
- Bronx, NY victims more satisfied where defendant received sentence to BIP
- In Yonkers, NY IDV:
 - nearly all (85%) respondents had a protective order in place at the time they were surveyed. Most victims (60%) believed that the court was likely to discover a violation of their protective order and 72% believed that the judge would take such a violation seriously.
 - Court Efficiency: The majority of both victims and defendants believed that having all of their cases in one court made getting to court easier and meant taking fewer days off from work to attend court.

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How is your community holding offenders accountable and enhancing victim safety?

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