

**Final Evaluation Report:  
Domestic Violence Case  
Coordination Project**

*January 2006*

*Submitted to:*

**STATE OF MAINE, JUDICIAL BRANCH**

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# **Final Evaluation Report: Domestic Violence Case Coordination Project January 2006**

## **I. EXECUTIVE SUMMARY**

### **Introduction**

In September 2001, the Maine District Court received funding to create the Domestic Violence Case Coordination Project. This funding was sought in part as the result of a needs assessment conducted earlier that year which identified the need for “coordination of information, continuity of judging, [and] consistency in linking victims to services and following up on respondents” in the Portland Court’s handling of domestic violence cases.<sup>1</sup>

The project sought to address two primary problems: the lack of information available to judges issuing orders in cases involving domestic violence regarding other actions and orders that could affect victim safety (e.g., defendant’s criminal history or related criminal, civil, or other PFA actions); and the lack of judicial follow-up to assure that offenders were complying with the requirements of court orders (e.g., probation conditions requiring the offender to obtain mental health or substance abuse treatment, participate in a certified batterer’s intervention program, or obtain other social services.)

To address these problems, the project set out the following objectives:

1. To establish uniform protocols for the processing of domestic violence related cases to ensure the sharing of information regarding criminal and civil actions and orders involving the same individuals;
2. To examine methods for coordinating the management of related criminal and civil actions involving domestic violence; and
3. To establish post-adjudication review hearings to assure that the objectives of sentences and civil orders are achieved.

In the initial phase of the project, the Maine District Court established two multi-disciplinary advisory committees (one in York and one in Portland) to oversee implementation of the project goals and objectives in their respective courts. Portland District Court, a large court, separated protection from abuse cases from protection from harassment cases in the summer of 2002 and instituted monthly judicial review hearings in September of 2002, both to be presided over by the same judge. York District Court, a small court, established a weekly domestic violence docket beginning in July of 2002 that included all protection from abuse and criminal domestic violence cases, as well as monthly judicial reviews, also to be presided over by the same judge.

In early 2003 the Court obtained funding to hire a Domestic Violence Specialist, housed in the clerk’s office, to provide information to the judges on related cases and court orders in domestic violence cases and to collect data to be used in the evaluation. This clerk divided

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<sup>1</sup> Sack, E., (2001) Report on Cumberland County Domestic Violence Coordinated Response.

her time between the Portland and York courts and, to the extent possible, sat with the judges through the domestic violence case hearings.

In the fall of 2003, the Maine District Court again received funding under the Violence Against Women Act to expand the original two pilot sites to three new district courts: Springvale, Waterville, and Skowhegan. Springvale followed the model of the York court with the same judge presiding over the domestic violence docket in both courts, beginning in May of 2004. The Waterville and Skowhegan courts established monthly judicial review dockets, similar to the Portland model, with the same judge presiding over the dockets in both of those courts, beginning in July of 2004.

The VAWA grant funded a full-time coordinator, one dedicated domestic violence probation officer (in York County),<sup>2</sup> and two temporary full-time court clerks to assist with preparing the dockets, gathering related case information, and collecting data.

The purpose of this report is to present final findings and recommendations regarding the Domestic Violence Case Coordination Project.<sup>3</sup> The report includes a description of the specific protocols implemented in each of the pilot sites as of June 2005; discussion of areas of success and areas of concern regarding the effect of those protocols on the grant goals of increasing victim safety and offender accountability; and recommendations offered by stakeholders regarding enhancements to the protocols that they believe will further the realization of these goals at the pilot sites, and at Maine's other courts as they implement domestic violence dockets appropriate to their courts and communities.<sup>4</sup>

## **Overall Finding and Recommendation**

The Domestic Violence Case Coordination Project succeeded in its specific objectives of:

- ❑ Establishing uniform protocols for sharing information regarding criminal and civil actions and orders involving the same individuals in domestic violence cases; and
- ❑ Establishing post-adjudication review hearings to assure that the objectives of sentences and civil orders are achieved in all five of the pilot sites.

It also succeeded in implementing a third objective—coordinating the management of related criminal and civil actions involving domestic violence—in two of its courts. The Project made significant progress toward its overarching goals of increasing victim safety and offender accountability through implementation of these objectives.

These successes support our recommendation that the protocols developed and implemented in the course of the Project be continued to the extent possible given court resources. We

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<sup>2</sup> The Portland court has had a dedicated domestic violence probation officer for a number of years, under a separate VAWA grant.

<sup>3</sup> Findings and recommendations were issued in interim evaluation reports in March of 2003 and April of 2004. Those reports are available upon request from the Muskie School.

<sup>4</sup> A procedures manual for judges, court clerks, and court security officers is being developed and should be available in early 2006. Another document containing protocols for court personnel and other community partners was distributed at a statewide training on September 15-16, 2005. Those protocols are attached as Appendix A to this report.

also recommend that other Maine courts consider implementing the following protocols, and others, as appropriate and feasible:

- a) Judicial review of domestic violence offenders for compliance with probation conditions;
- b) Expedited arraignments and trials for domestic violence crimes; and
- c) Convening (or utilizing existing) task forces to improve coordination and collaboration in the court and community response to domestic violence.

## **Key Findings**

### **Judicial monitoring**

- Judicial monitoring of convicted domestic violence offenders, combined with the condition to register for batterers intervention programs within the first month after sentencing, has led to offenders registering for and attending Batterers' Intervention Programs (BIPs) much sooner and completing at a higher rate than they were prior to the mandated reviews.<sup>5</sup> It has also led to greater and prompter compliance with other conditions, such as substance abuse evaluations and counseling.
- Judges' responses to offenders who are not in compliance with probation conditions or who fail to appear for the reviews, and the time intervals between offenders' reviews, vary from court to court.<sup>6</sup> Judges also differ in the extent to which they solicit input from the offender and from other participants attending the hearings such as probation, BIP staff, prosecutors, and victims.<sup>7</sup>
- The judicial review process requires that probation officers be diligent in supervising DV offenders and that BIP staff provide regular, timely information regarding participation of offenders in their programs. Both the probation officer and BIP provider have been required to report to the court prior to and/or at the time of the judicial review hearing regarding offenders' compliance with probation conditions and other court orders. Holding them to a higher standard of accountability in their roles has resulted in a higher level of accountability for the offender and swifter imposition of sanctions where appropriate.

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<sup>5</sup> The average time from conviction to completion of requirements and discharge from the monitoring process was 11 months. (See Appendix B, Judicial Monitoring Data)

<sup>6</sup> For example, one judge issued a bench warrant for the arrest of an offender who failed to appear; another requested a probation officer to inquire into the circumstances of an offender who failed to appear and then move for revocation if appropriate. An offender in compliance at a first hearing in one court is required to return in three months; an offender in compliance at a first hearing in another court is required to return for review in one month. One offender who didn't bring documentation to court was told to return in one month with the documentation; in another court a defendant without documentation was ordered to drive home, obtain the documentation, and return to the court the same day.

<sup>7</sup> For example, a couple of judges ask defendants at the first judicial review hearing to explain "what got you here." If they are not truthful, the judge will ask the prosecutor to read aloud from the police report description of the incident.

## Coordinated Management of Domestic Violence Cases

- Having one judge hearing all domestic violence cases (i.e., protection from abuse and criminal) has enabled the judge to be better informed about the offenders and their families and to make more consistent decisions. It has also sent a more consistent message to offenders that domestic violence is considered to be serious and that offenders will be held accountable for their crimes and for complying with conditions of court orders.
- Providing related case information to judges issuing protection orders and making bail and sentencing decisions in domestic violence cases has increased the confidence of judges that such orders are consistent, appropriate, and more likely to contribute to the safety of victims.<sup>8</sup>
- Where district and superior courts are coordinated in their efforts to consistently require convicted DV offenders to attend BIPs and judicial review hearings, there has been less motivation for those charged with DV crimes to transfer cases to superior court in an attempt to delay prosecution, avoid conviction, and if convicted, avoid those conditions of probation.

## Protection from Abuse Hearings

- Holding hearings for protection from abuse cases separately from protection from harassment cases is now a practice in all of Maine's district courts.<sup>9</sup> This practice has allowed for an atmosphere more appropriate to the gravity of domestic violence cases. While the dedicated domestic violence judges have maintained a demeanor appropriate to these cases, some judges presiding over these hearings at pilot sites who are not directly involved in the Project continue to conduct them in ways that do not reflect an understanding of the gravity of domestic violence.

## Coordinated Community Response/Information Sharing

- Stakeholders who are involved in the judicial review process and who participate on advisory committees to the pilot site courts<sup>10</sup> are communicating and sharing information more effectively. This makes it more likely that offenders will be held accountable for violations of probation orders, and possibly less likely that they will violate, because they are being watched by "many sets of eyes."
- Victim advocates, prosecutors, victim witness advocates, and probation officers are improving communication and collaboration regarding how to best keep victims informed about the legal process and resources available to them. They are exploring ways to make it easier for victims to offer information regarding their safety concerns

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<sup>8</sup> As a result of the clerks' search for information regarding related civil, criminal, and/or PFA matters, they located and provided collateral case information to judges in an average of 40% of the PFA cases set for hearing between January of 2004 and March of 2005 at all five sites. See Table 1 for details.

<sup>9</sup> This change was implemented in April of 2004, as a result of a recommendation made by the Judicial Resources Team. The team based its recommendation on the successful separation of these cases in Portland and York District Courts in the early stages of this Project.

<sup>10</sup> These stakeholders include judges, victim advocates, law enforcement, prosecution staff, probation, BIP providers, and court clerks, among others.

and the offender's compliance with probation conditions without violating victim confidentiality or further endangering the victim. However, gaps and inconsistencies (both systemic and in individual practice) continue to exist in the network of services, practices, and information-sharing from jurisdiction to jurisdiction. These gaps may place victims in danger and/or leave victims without the information they need to make the best decisions regarding their safety and the safety of their families.<sup>11</sup>

## **Key Recommendations**

### **Judicial Monitoring**

- 1) Develop *guidelines for graduated sanctions* to be imposed when a probationer fails to appear for judicial review or fails to comply with other probation conditions. Encourage the imposing of sanctions or consequences at judicial review hearings whenever an offender is in violation or has failed to fully comply with conditions, including in-court arrests or the issuing of bench warrants.
- 2) Solicit *more direct and more comprehensive input at judicial review hearings* from probation officers, BIP providers, prosecutors, victims, and other interested persons. In addition to addressing the offender's technical compliance with probation conditions, the judge may also inquire about attitudes, behaviors, actions, and situations that could pose risks to compliance. This information may indicate a need for more intensive supervision (e.g., more frequent attendance at judicial review hearings), even when the offender has not violated.
- 3) Consider having the *dedicated domestic violence judge also preside over probation revocation hearings* for domestic violence offenders and, if possible, hold *revocation hearings at the same time as the judicial monitoring sessions*.<sup>12</sup>

### **Information to victims and defendants**

- 4) Provide *information verbally and in writing to DV victims seeking protection orders* regarding local victim services agencies and the fact that the agencies' advocates may be able to assist them with filing for an emergency protection order and provide support at the hearing on the order.
- 5) Provide *information to defendants in protection order proceedings* regarding the meaning of a protection order, the consequences of violating the order, and resources available in the community. Consider providing this information to the defendant at the time the protection order is served, as well as at the protection order hearing.
- 6) Consistently *indicate the presence of victim advocates at protection from abuse hearings* and explain that they are available to assist unrepresented victims. Ensure that victim advocates are consistently present at these hearings.

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<sup>11</sup> An example of such a gap is not informing victims of the dispositions of criminal cases, (including when cases are "no-complained") and, where there are convictions, not informing them about the probation conditions.

<sup>12</sup> Issues that would need to be considered in the implementation of this recommendation include insuring due process, judicial neutrality, and adequate representation for the defendant.



- 7) Where there are criminal DV charges, provide *information to DV victims regarding local victim services agencies* a) when criminal DV charges are filed by the prosecutor (e.g., by the victim witness advocate); b) when the offender is placed on probation (e.g., by the probation officer); c) when the offender begins participating in a BIP (e.g., by BIP staff).

#### Coordinated Community Response

- 8) Conduct *regular meetings of domestic violence docket advisory committees* to improve communication, share information, and monitor the implementation of protocols.<sup>13</sup> At those meetings:
- a) Include district and superior court judges, as well as prosecutors from the district and superior courts, to insure consistency and coordination in the handling of domestic violence crimes at both levels.
  - b) Set aside time for the groups (which could be subcommittees or workgroups) to look at closed cases as a way to improve understanding of participants' roles and the quality of participants' responses and interactions.<sup>14</sup>
- 9) Form subcommittees of the advisory committees to *identify gaps in information and services to victims* and to consider ways to close those gaps. Key participants should be victim advocates, prosecutors, probation officers, and victim witness advocates from prosecutors' offices. Consider developing protocols on the coordination of participants' efforts to keep victims informed, ensuring that such protocols address victim safety and confidentiality.

#### Training/Cross-Training

- 10) Require ongoing and updated *domestic violence training for all judges, clerks, and court security officers* who are involved in domestic violence cases, at both district and superior court levels. Where possible, include best practices and personnel from the Maine Project courts and from the Judicial Oversight Demonstration sites.

Encourage and expand on existing *cross-training opportunities*, particularly between victim advocacy and prosecution staff (including prosecutors and victim witness advocates) and between victim advocacy staff and probation officers, to facilitate understanding of each other's roles and to improve the coordinated response to domestic violence.<sup>15</sup>

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<sup>13</sup> In the initial stages of the implementation, these meetings should take place at least monthly; once protocols have been implemented, bimonthly meeting should be adequate, unless specific issues or problems arise.

<sup>14</sup> Victim advocates should obtain releases from victims before participating in discussions of specific cases.

<sup>15</sup> Other cross-training possibilities might include a) BIP providers and prosecutors and b) bail commissioners and law enforcement officers.

## **II. METHODOLOGY**

In May 2002 the Court contracted with the Edmund S. Muskie School of Public Service, Cutler Institute for Child and Family Policy, (“Muskie School”) to assist with the development and implementation of protocols, to conduct an evaluation of the project, and to develop statewide protocols and a draft procedures manual. Muskie staff played a role beyond that of traditional evaluator by being involved in the development of the protocols and by providing continuous feedback to the stakeholders as the protocols were implemented. The process was a dynamic one and was necessarily affected by limited court resources, the size of the respective courts, and other factors--some common to both courts and some unique to each.

The following methodologies were employed to conduct the evaluation of this project:

### *Secondary Research/Expert Interviews*

Muskie staff conducted research, including interviews with researchers, evaluators, judges, other court personnel, and other stakeholders, regarding the structure, operation, and effectiveness of various domestic violence courts around the country. Models appropriate for the Maine pilot sites were presented at a joint meeting of the York and Portland advisory committees in June of 2002, with a focus on best practices and lessons learned. Muskie staff researched the impact of judicial monitoring and court sanctions for non-compliance and interviewed judicial personnel from around the country regarding these issues. Results were presented at the second joint meeting of the two advisory committees in October of 2002.

### *Stakeholder Interviews*

Baseline interviews were conducted with a broad range of stakeholders and committee members at the Portland and York courts regarding the issues of information sharing and coordinated case management of domestic violence cases. These interviews were repeated in early 2003 and again at the end of 2003, to discern how well the protocols were being implemented, the difference the protocols were making, and what improvements could be made.<sup>16</sup> The DVCCP coordinator conducted baseline interviews with stakeholders at the Waterville and Skowhegan sites in early 2004 regarding issues and information needs, and shared the results of those interviews with Muskie staff.

Final interviews were conducted with key stakeholders at all five pilot sites in June and July of 2005, including judges, prosecutors, probation officers, court clerks, victim advocates, victim witness advocates, BIP staff, and attorneys. They were asked about the effectiveness of their community’s coordinated response, the sharing of information between and among partners, the effectiveness of protocols implemented at their pilot sites, and what improvements could be made to increase victim safety and offender accountability. (See Appendix C, Evaluation of DVCCP, Final Post-Survey.)

### *Data Collection*

DV court clerks and the DV Specialist collected extensive data on cases that were part of the domestic violence docket in all five pilot sites from February of 2003 through June of 2005. This information included the type of case (civil or criminal), type of hearing (criminal

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<sup>16</sup> The results of these interviews are summarized in two interim evaluation reports, issued in March of 2003 and April of 2004, which are available upon request from the Muskie School.

arraignment, protection from abuse, judicial review, etc.), and the disposition of those cases. (See Appendix D, List of Data Variables.)<sup>17</sup>

### *Court Observation*

Muskie staff attended court hearings at all five pilot sites to observe courtroom atmosphere, judicial practices and demeanor, and changes and developments in practices and protocols. They met with judges and other stakeholders following those hearings to discuss emerging issues and how they should be addressed.

### *Continuous Feedback*

Muskie staff provided continuous feedback to the judges and the committees throughout the implementation phase of this project. Muskie staff attended most of the advisory committee meetings and met regularly with the judges and court administrators to discuss the implementation of the project. Muskie staff participated in discussions regarding appropriate protocols at the pilot sites, based on information obtained from interviews with stakeholders and on best practices research.

## **III. PROTOCOLS**

### **A. Design of Protocols at the Pilot Sites**

Following are the basic protocols that defined the domestic violence dockets in the pilot site courts, grouped according to the courts that subscribed to those protocols:

#### Portland, Waterville, and Skowhegan District Court Protocols

- ❑ Protection from abuse (PFA) cases are heard separately from protection from harassment cases.<sup>18</sup>
- ❑ Information about other related cases and court orders is provided<sup>19</sup> to the judge to the judge hearing the PFA cases, at both the temporary and final hearing stage.
- ❑ Monthly judicial review sessions monitor the compliance of DV offenders with probation conditions, particularly participation in a Batterers Intervention Program.
- ❑ One judge presides over all judicial monitoring sessions. (In Portland only, this is the same judge who hears the PFA cases.)
- ❑ Probation officers and BIP staff provide written reports on the status of offenders they are supervising or who attend their classes who are scheduled to appear at the monitoring sessions.

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<sup>17</sup> Data on hearings prior to January of 2004 are reported in the Second Interim Evaluation Report issued in April 2004, available from the Muskie School.

<sup>18</sup> The Portland District Court protocols differ from Waterville and Skowhegan in that the same Portland judge presides over both the PFA and the judicial review hearings—PFAs on a weekly basis and JR on a monthly basis. One judge presides over the judicial review hearings in both Waterville and Skowhegan, but a number of different judges preside over PFA hearings in those two courts.

<sup>19</sup> This currently includes other PFA orders, bail or probation conditions, family matters, and child protective cases involving the same two parties. A state-wide search is conducted on the Maine Judicial Information System (MEJIS).

- ❑ The DV probation officer, BIP staff, DV prosecutor, victim witness assistant(s) from the prosecutor's office, and DV investigator attend the monitoring sessions.

#### York and Springvale District Court Protocols (includes all criminal DV cases)

- ❑ One half-day a week (two weeks a month for York and three weeks a month for Springvale) is dedicated to domestic violence cases, both criminal (from arraignment through judicial review) and civil (protection from abuse).
- ❑ One judge hears all DV cases.
- ❑ DV criminal cases are placed on an expedited docket for purposes of arraignment and trial in the York court only.
- ❑ Clerks provide the judge with the docket sheets and/or court files for other related matters, such as a pending criminal case, protective custody case, family matter, or protection order.
- ❑ The dedicated DV probation officer, prosecutor, victim witness advocate, and victim advocates attend the judicial review hearings.
- ❑ The BIP provider sends a report on the attendance status of offenders, and other information as appropriate, for those scheduled for the judicial review hearings.
- ❑ The probation officers supervising domestic violence defendants complete reports on the status of DV offenders with regard to compliance with specific probation conditions.

#### Differences between the two original pilot sites

Portland and York District Courts were the two original pilot sites in this project. York began its DV docket in July of 2002, and Portland began conducting judicial reviews in September of 2002. The differences between the protocols decided upon in the two original pilot sites—Portland and York District Courts—were in part a function of the difference in size between the courts.

In 2002 when the pilot project began, the Portland court had 30-50 PFA hearings scheduled each week, while the York court may have had 6-8 per week. Likewise, the York court had approximately 4-5 criminal DV hearings per week, while the Portland court had 25-35. While the York court covers six (6) law enforcement jurisdictions, the Portland Court covers 15, with appearance days scattered throughout the week. It was possible for the York Court to schedule all criminal DV cases on one day, because of its small size. That approach was not feasible at the Portland site because of courtroom space, judicial time, and the practice of regular reporting days for specific law enforcement jurisdictions.

Although the Portland court did not have a dedicated DV docket, as did York, it did have two assistant district attorneys (ADAs) dedicated to DV cases who prosecuted in both District and Superior Court.<sup>20</sup> Thus, the dedicated ADAs were able to recommend consistent

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<sup>20</sup> In December of 2003, the Portland DV prosecution unit lost one of its prosecutors. That prosecutor was not replaced, due to state employee attrition policies, until the spring of 2005. During that interval, the one DV prosecutor handled mostly misdemeanor cases, and other ADAs prosecuted many of the felony cases in Superior Court. This resulted in less consistency in charging decisions and sentencing agreements and fewer convictions for DV crimes at the superior court level, according to reports of stakeholders. It is expected that the consistency between the two court levels will return, now that there are two DV prosecutors.

sentences for DV offenders, including attendance at Batterers Intervention Programs and judicial monitoring for offenders on probation, from both district and superior courts. Following conviction for a DV crime in Superior Court, offenders' cases were sent back to the District Court to be monitored at judicial review hearings.

#### Addition of Springvale, Waterville, and Skowhegan District Courts

Because there was already a judge hearing DV cases in York District Court, it was decided to expand the project under the new funding to Springvale District Court and to apply the same protocols. However, because Springvale is a larger court, there were three criminal DV dockets per month rather than two. To the extent possible, DV arraignments, bail hearings, and probation violations were set for one of the three Mondays on which the domestic violence docket was heard. Judicial reviews were scheduled for the third Monday of every month. In York, DV cases were scheduled every other Wednesday, and every third Wednesday cases were scheduled for judicial review. Springvale began its DV docket in May of 2004.

Waterville and Skowhegan District Courts followed the post-conviction model, with monthly judicial review hearings conducted by the same judge in both courts.<sup>21</sup> Those courts began to conduct judicial review hearings in July of 2004.

#### B. Current Status of Protocols at the Pilot Sites

Appendix E, Status of Protocols Table, summarizes the status of the implementation of more specific protocols at the five pilot court sites. Aside from the structural protocols (type of hearings, information to be provided to the judge, etc.), there are wide-ranging variations from site to site. This may be the result of many factors—the size of the courts, the nature of the relationships among the partners involved in responding to domestic violence, leadership, efforts made by particular individuals to improve communication and collaboration, and staffing and resources are some of the possible factors. Some sites have had dedicated probation officers, for example, while others have not or have had them only intermittently. Some sites have longstanding collaborative efforts relating to domestic violence that partners have been engaged in, while others have only recently begun to work together in a collaborative way.

The purpose of presenting these more specific protocols is to inform pilot site courts, as well as those considering establishing a domestic violence docket, of the range and richness of possibilities as they move forward in their efforts.

#### C. Development of Uniform Recommended Protocols

A committee met in the spring and summer of 2005 to develop uniform protocols based on the experience of the pilot sites. This was one of the goals of the Project. The intention was to share these protocols with other court sites that were considering establishing a domestic violence docket. This committee consisted of the following: the Project coordinator, a Project judge, prosecutor, court clerk, court security, court administrator, and Muskie staff.

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<sup>21</sup> While data was collected by court clerks regarding protection from abuse hearings, those hearings were conducted by different judges, not the same judge, as was the case in the other three courts.

These protocols, which are organized according to the stakeholder groups, are attached to this report in Appendix A. This document was provided to court personnel and other community partners representing the five pilot site courts and five additional jurisdictions at a statewide training on September 15-16, 2005.

## **IV. AREAS OF SUCCESS**

### **Offenders Not Falling through the Cracks**

The clearest consensus about this project's success is that it *prevents domestic violence offenders from falling through the cracks*. This was expressed by almost all of the stakeholders interviewed, often in exactly the same words. Many of the participants in this project remember a time when it took up to six months for someone convicted of a DV crime to register for a batterers intervention program. Before a legislative change that enabled two years of probation to be imposed when there was a condition to attend a BIP,<sup>22</sup> it was even possible for an offender to register for a BIP a few weeks or months before the one year of probation was to expire and only attend a few classes before being free and clear. That is no longer possible. Even after the legislative change (but prior to this Project) it could take three to four months for offenders to register for BIP. These were months in which the offender could have been continuing abusive behavior toward the victim, or engaging in abuse with a new victim, with few eyes watching that person or holding that person accountable.

Having dedicated DV probation officers has also significantly contributed to this success. The dedicated probation officer is able to focus attention in a way that other officers with much larger caseloads are not. Probation officers supervising domestic violence offenders (whether dedicated or not) are required to submit compliance information on offenders prior to the hearings. This necessarily leads to probation officers "staying on top of" what is happening with these offenders. The structure and regularity of the judicial review process, that is, the fact that at least in the early phase of probation, offenders are brought before the judge for review every month or every few months, also leads to a greater degree of scrutiny. Probation officers, including those who are not dedicated to domestic violence, have reported that the judicial review process does have this effect.

*"A defendant could go for months without registering for the batterers program before the probation officer realized this and moved to revoke. Now we give them two weeks to enroll. I'm not seeing revocations for failure to enroll, like I was before judicial review."*  
--Prosecutor

A BIP provider believes that the combination of a dedicated domestic violence probation officer and the judicial review hearings share the credit for substantially improving the attendance and reducing terminations from the their program. "Before, I would terminate someone, send a notice to probation, and nothing happened. I would see the same defendant back six months or so later on a re-offense. Now, when I terminate someone, probation has the person picked up and placed in jail for a few days. I see them back within a couple of weeks to re-enroll in the program."

Another experienced person observed that judicial review has the effect of reducing the probation officer's caseload. There are two reasons for this: 1) offenders are registering for BIPs sooner and completing earlier, which releases them from probation as long as they have

<sup>22</sup> 17A MRSA §1202 (1-B).

completed all other conditions; 2) the system becomes aware of offenders who are not complying at an earlier point, and their probation is revoked sooner, also resulting in their removal from the probation officer's caseload. This person also expressed the view that while judicial review may not be increasing the rate of offenders who successfully complete probation, it is helping to reveal at an earlier point in the process who is going to succeed on probation and who is not.

The requirement that BIP providers report to the court on the status of offenders who attend their programs means that they, too, are being held to a higher level of accountability than before. One BIP provider commented that this requirement can be particularly useful in dealing with someone who is in danger of being terminated from the program. "I have a back-up system that will support me," this person said. This person warns offenders that the judge will hear about problems and about reasons for the offender's termination in person at the hearing. This prevents offenders from playing one part of the system off against another.

### Increased Participation at Judicial Review Hearings

Possibly in part due to a training that took place on January 20, 2005, at which judges and probation officers, among others, from the three Department of Justice-funded domestic violence court demonstration sites discussed their practices,<sup>23</sup> noticeable changes took place in how the three judges in Maine's pilot courts conducted judicial review hearings. As a result of the training and ensuing discussions, one judge felt freer to make victim safety the priority in reaching decisions. Another judge placed offenders' files in a particular order prior to the hearing, so those in compliance would be heard first, those not in compliance would be heard next, and those appearing at their first judicial review would be heard last. This was intended to expose the first-timers to the differences between what happened to those in compliance versus those who were not. Yet another judge began directing more questions to the defendants and to the probation officer and BIP staff present at the hearing. All judges began to solicit more information from probation, BIP, prosecution, and others during the hearings.

### Related Case Information Provided to Judges

Data collected at the five pilot site courts shows that judges have been provided with a substantial amount of related case information at final PFA hearings.<sup>24</sup> Clerks located and provided collateral case information to judges at 40% of the PFA hearings conducted between January 2004 and March of 2005, as illustrated in Table 1 below:

<b>Table 1: Related Case Information Provided to Judges, All Sites (January 2004-March 2005)</b>					
	<i>Total</i>	<i>Any related case</i>	<i>Related criminal</i>	<i>Related PFA</i>	<i>Related Civil</i>
# Hearings	2,591	1,042	559	448	475

<sup>23</sup> Judges, prosecutors, probation officers, and others from Milwaukee, Wisconsin, Washtenaw County in Michigan, and Dorchester, Massachusetts met with representatives from the Maine pilot site courts about their practices and protocols and lessons learned in handling domestic violence cases in their jurisdictions. These projects were funded as Judicial Oversight Demonstration Initiatives by the Department of Justice, under the Violence Against Women Act. (VAWA). The training was coordinated and presented by the Vera Institute.

<sup>24</sup> This information is also provided when the plaintiff requests an emergency protection order.

The prevalence of related case information reinforces the importance of making this information available to judges, to ensure consistency of orders and to improve victim safety.

### **Information Provided to Defendants at PFA Hearings**

Since the fall of 2004, every defendant attending protection from abuse hearings at Portland District Court has been provided with written information regarding the meaning of a protection order, examples of violations of protection orders, information regarding the consequences of violating the order, and a list of community resources. (See Appendix F, PFA handouts for defendants) This information is presented to defendants in person at the final hearing and, if necessary, the person providing the materials will answer questions.<sup>25</sup>

*"You're the first person who's ever explained any of this to me."  
--Defendant at PFA hearing*

Judges and others had expressed concern that while victim advocates and pro bono attorneys were present to assist victims who were not represented by private counsel, defendants did not have any equivalent advocacy or information available to them. It is hoped that the courts will approve these materials, or similar materials, so they can be provided to the defendants at the time the protection order is served.

### **Improved Understanding and Collaboration between and among Participants**

Evaluators observed great leaps forward over the three-year span of this pilot project in the understanding and collaboration among participants involved in the pilot project. One example of this resulted from a collaboration between a victim advocacy agency and a probation officer. A letter is now being sent to victims of DV crimes that resulted in conviction and probation. The letter is written on Department of Corrections letterhead, sent out by the victim advocacy agency, and contains the following information:

- Contact information for the convicted offender's probation office;
- Defendant's probation conditions;
- Contact information for the local victim advocacy organization;
- Explanation of how information shared with the probation officer is not confidential, while information shared with a victim advocate is confidential. (See Appendix E, DOC letter to victim.)

Another example is the result of a discussion that took place at an advisory committee meeting in which a victim advocate shared information about the importance of child support for domestic violence victims. The judge present at the meeting began to inquire about child support at judicial review hearings.

Other improvements are not as easy to quantify or describe: they have been observed in the dialogue and exchanges that have occurred at the advisory committee meetings (including between representatives of organizations that have historically felt themselves to be at cross-

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<sup>25</sup> This person will not give legal advice, however, and is not considered an advocate. Information regarding community resources is also provided.



purposes)—in the respect exhibited, the patience of the listening and explaining, and the honest yet respectful disagreements. These improvements have also been observed in the post-hearing ad-hoc meetings that have taken place in which judges have solicited input from probation officers, victim advocates, prosecutors, and others who were present at the hearings. In one of the pilot sites, the victim advocacy organization has made concerted attempts to reach out to other community partners, from court clerks to court security to probation to prosecution. These efforts have resulted in a number of improvements relating to victim safety and providing the victim with more information.

## **V. AREAS OF CONCERN**

### **Inconsistent Responses to Offenders**

Many stakeholders reported that they would like to see prompt, consistent consequences and sanctions for DV offenders who have failed to comply with conditions of probation and are appearing (or fail to appear) at a judicial review hearing. This applies also to offenders who violate court orders by having contact with the victim in or outside the courtroom on PFA hearing day. Reports of inconsistencies from court to court at judicial review hearings include the following: an offender in compliance at a first hearing in one court is required to return in three months while an offender in compliance at a first hearing in another court is told to return for review in one month; an offender who does not bring documentation of compliance in one court is told to drive home, obtain the documentation, and return to the court on the same day, while in another court the offender is admonished and told to return in one month with the documentation. Admittedly, factors such as the number of offenders scheduled for review and the length of the review session may affect the judges' responses to such situations.

Table 2 below illustrates similarities and differences in the treatment of compliant and non-compliant offenders from court to court:

<b>Table 2: Time between First and Second Review Hearings *</b>						
	<i>Portland</i>	<i>CCSC</i>	<i>Skowhegan</i>	<i>Waterville</i>	<i>York</i>	<i>Springvale</i>
Offender in compliance	90 days (n=39)	120 days (n=21)	35 days (n=35)	28 days (n=16)	81 days (n=14)	59.5 days (n=22)
Offender not in compliance	31 days (n=7)	28 days (n=1)	(n=0)	34.5 days (n=2)	56 days (n=5)	42 days (n=15)
*Median values are used here to prevent a small number of high values from skewing the averages. The median represents the middle value in a range of values, i.e., there are an equal number of cases that are higher and lower than this value. Each of the pairings of Portland/CCSC, Skowhegan/Waterville, and York/Springvale is presided over by one of the three dedicated DV judges.						

It was reported and observed that some offenders do not understand the seriousness of judicial review and of the necessity to register for BIP as required in their sentencing orders, at least at their first hearing.<sup>26</sup> This could be the result of insufficient information provided

<sup>26</sup> A BIP provider related that a number of offenders registering for the program were shocked to learn that they would be required to attend weekly classes over a period of 48 weeks and that it was their responsibility to pay for each class.

to them at the time of sentencing and also because judicial review is still a relatively new part of the court process. These factors may in turn contribute to the greater likelihood, as reported and observed, that offenders will be in compliance with their conditions of probation at the second judicial review hearing than at their initial hearing. Table 2 illustrates that offenders who are not in compliance at the first hearing in any of the Project courts are generally required to return within a shorter period of time (usually one month) than those who are in compliance.

One person made the point that prior to judicial monitoring, a court appearance for a DV offender likely meant arraignment, trial, sentencing, or probation revocation. In this person's view, offenders appearing before a judge a number of times for judicial review who do not experience--or witness--immediate sanctions for non-compliance are becoming desensitized to going before a judge. Another person stated the belief that for those chronic offenders who have had their probation revoked numerous times, the process of going to court and witnessing sanctions being imposed may not have much of an effect. "It works best for those in the middle," this officer observed.

*"We use the fear of going back to court as a weapon to get them to comply. If they go before the judge [at judicial review] and the judge doesn't send them to jail, that cuts our legs out from under us."*  
--Probation officer

Research does suggest that an offender's perception of the certainty of a sanction can have the effect of reducing violations during the probationary period.<sup>27</sup> Judicial and probation officers who have been engaged in post-conviction review for DV offenders for some time believe that imposing some level of sanction for every violation is central to the effectiveness of the process. These sanctions may be creative--tailored to particular situations and designed to insure victim safety and the well-being of the family-- but they should be consistently applied.

### **Lack of Participation at Superior Court Level**

Because Portland has vertical prosecution (i.e., dedicated DV prosecutors who handle cases in both District and Superior Court), there is consistency between the sentences recommended for DV defendants at both levels. Defendants with DV convictions in Superior Court are consistently ordered to Batterers' Intervention Programs and to judicial review in the District Court. Of the 226 defendants ordered to judicial review hearings in Portland District Court between January 1004 and May 2005, 90 were sentenced in Cumberland County Superior Court. (See Appendix B, Judicial Monitoring Tables.)

This consistency is not seen in York District and York Superior Court sentencing for DV crimes. Only nine domestic violence offenders sentenced in York Superior Court were referred back to York District Court for judicial monitoring between January of 2004 and June of 2005, compared to 75 offenders from York District Court and 92 offenders from Springvale District Court who were ordered to judicial review. (See Appendix B.)

It was reported that attorneys representing DV defendants request a transfer to Superior Court in York County because they feel they have a better chance of avoiding a conviction on the DV charge. This makes sense, since misdemeanor DV charges may not seem serious when compared with the gross sexual assault, manslaughter, and homicide cases awaiting

<sup>27</sup> Maxwell, S.R., and M.K. Gray. 2000. "Deterrence: Testing the Effects of Perceived Sanction Certainty on Probation Violations." *Sociological Inquiry* 70(2): 117-136.

trial in Superior Court. Defendants are also motivated to avoid the consequences a DV conviction may have for employment and for firearms possession, and to avoid the 48-week BIP and regular judicial review requirements.<sup>28</sup>

Though there were no defendants in judicial review in either Waterville or Skowhegan who had been sentenced in their respective Superior Courts, neither of those courts has as high a rate of transfers of DV cases from District to Superior Court as do York and Springvale.

<b>Table 3: Arraignments and Dispositions (January 2004-June 2005)</b>					
	<i>Arraigned</i>	<i>Transferred</i>	<i>Dismissed</i>	<i>Filed</i>	<i>Settled</i>
Skowhegan (6/04-6/05)	87	22	14	1	51
Waterville (7/04-6/05)	119	8	15	7	72
York (1/04-6/05)	106	38	15	39	31
Springvale (5/04-6/05)	200	116	34	44	61

As the above table shows, between May 2004 and June of 2005, 200 DV arraignments were held in Springvale and 116 cases were transferred. Though the cases arraigned may not all be the same cases that were transferred (because of pending cases and cases awaiting disposition), it is useful to note that the number of cases transferred represents 58% of the number arraigned. Similarly, the 38 cases transferred from York District Court, out of 106 cases arraigned, represents 36%. These figures gain significance when compared with Skowhegan District Court, which had 87 arraignments and 22 transfers (25%), and Waterville District Court, with 119 arraignments and 8 transfers (6%). While different ADAs prosecute cases at the district and superior court levels in York County, the same ADA handles DV cases in Skowhegan District and Somerset County Superior Courts.<sup>29</sup>

It appears that lack of Superior Court participation in a domestic violence docket may contribute to cases being transferred from district to superior court, which in turn may defeat the goals and objectives of the specialized docket. This could be an unintended negative consequence of instituting a DV docket. Courts considering instituting a docket at the district court level only should be mindful of this.

### **Lack of Victim Input at Judicial Review**

Another area of frequently-expressed concern is the lack of victim input and information after the offender is sentenced. Very few victims have offered input at or prior to judicial review hearings. The degree to which probation officers have contact with victims prior to judicial review hearings varies from site to site. It was reported that up to 80% of DV victims request contact with their partners after the sentencing occurs. It is also true that DV

<sup>28</sup> Other factors reported to affect the outcome of DV cases in Superior Court include longer times to trial and victims not cooperating with the prosecutor's office.

<sup>29</sup> This is made possible by the fact that the Skowhegan District Court and Somerset County Superior Court are across the street from each other. (Neither Springvale nor York District Courts are co-located with York Superior Court.) In addition, the Waterville and Skowhegan prosecution offices share a DV investigator whose surveillance results in a high rate of arrests of DV defendants for bail violations. This assists with the effective prosecution of these cases at the District Court level.

advocates work more frequently with victims who have left their abusive relationships and therefore rarely have contact with those who remain in the relationships.<sup>30</sup>

Only one of the prosecutor's offices involved in this project has ongoing contact with victims after sentencing, and that is to provide notice of the dates of judicial review hearings. Some probation officers will contact victims prior to every hearing. One of the jurisdictions recently began to send letters out to victims, on Department of Corrections letterhead, informing them of the probation conditions (including judicial review), providing information about the victim advocacy agency, and explaining that confidential concerns can be shared with victim advocates. (See Appendix G, DOC letter to victim.)

### **Lack of Understanding of Participants' Roles and Priorities**

Numerous stakeholders talked about the need to better understand each other's roles in order to better serve and respond to victims of domestic violence. They suggested that community partners meet on a regular basis to discuss specific cases in order to reach a better understanding of what they each do and to improve the coordinated community response to domestic violence. The strongest recommendations for this case management approach came from the victim advocates and the BIP providers, who work most closely with victims and with offenders.

A model is already in place in at least one of the Project jurisdictions, where judges, victim advocates, prosecutors, and law enforcement meet monthly to discuss specific case outcomes as well as systems-level issues.

Stakeholders also suggested cross-training and job-shadowing as a way to improve understanding of their respective roles. Some proposed pairings included victim advocates and prosecution staff (including victim witness advocates); victim advocates and probation; law enforcement and bail commissioners; law enforcement and prosecutors.

### **Insufficient Information Provided to Victims**

There are many points along the continuum of a domestic violence case at which the court and community partners have the opportunity to inform the victim about what is going on in a criminal or civil DV case or to offer the victim information and resources.

For a criminal case, those points are:

- ☐ When the offender makes bail and is released from custody
- ☐ When a case enters the DA's office
- ☐ When a decision is made not to charge (also called "no-complained")
- ☐ When the offender is convicted, placed on probation, and assigned a probation officer
- ☐ When the offender begins participation in BIP
- ☐ When the offender is scheduled for judicial review
- ☐ When the victim requests contact with the offender by calling or writing a letter to the probation officer

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<sup>30</sup> An exception is a program run by the Family Violence Project known as "Supporting Women Who Stay," which provides information, support, and counseling services to women who remain in their relationships following the DV conviction of their partners.

In a protection from abuse case, the points are:

- When the victim calls or comes to the court requesting an emergency protection from abuse order
- When the victim appears at the protection from abuse hearing
- When a victim requests dismissal of a protection from abuse order

Currently, jails have policies requiring their personnel to notify victims when the offenders have been released from custody following arrest for a DV crime. Advocates reported that this is happening most of the time.<sup>31</sup> The protocols for contacting victims about the

prosecution, or potential prosecution, of a criminal case

vary from office to office. In all

prosecution offices, victim witness advocates attempt to reach victims by phone when the offenders are in custody and are about to be arraigned. During these calls, some victim witness advocates routinely recommend that victims talk to the victim advocacy organization and consider obtaining a protection order. Some of them contact victims as soon as the police reports are received by the prosecutor's office;<sup>32</sup> others do so only after the prosecutor has reviewed the reports and determined that charges will be filed. Some call to inform the victim when the decision is made not to file charges if they "already know the victim"; others do not.<sup>33</sup>

*"We don't try to reach victims if they don't call us back. If they care, they'll call us back."*  
--Prosecutor

In all cases that the prosecutor decides to pursue, letters go to victims informing them about the case and giving them the name and number of the victim witness advocate. Information regarding the victim advocacy organization is sent with those letters in most, but not all, of the offices. Once the letters are sent out, most offices leave it up to the victim to call back to let the office know that she's interested in what's going on in the case. If the victim doesn't call these offices back, she may not be provided with any further information. One victim witness advocate reported that she calls victims when a case is finally resolved, whether or not the victim has been cooperative or supportive of the prosecution, and even if the victim refused to accept phone calls from the advocate prior to that.

All offices will find out what the victim would like to see happen in the case prior to reaching a plea agreement, whenever possible. Where a victim has been in contact with the

prosecutor's office and was not present at the sentencing hearing, she will receive a call from the victim witness advocate letting her know the results of the plea agreement.

Otherwise, there is no protocol at any of the pilot site's

prosecutor's offices for systematically notifying all victims of the disposition of the domestic

*"Victims always want to know what's going on in their case, no matter what position they take."*  
--Victim witness advocate

<sup>31</sup> In a March 2005 report, an advisory council reporting to Maine's Governor made recommendations expanding current law to include notification of a domestic violence victim when an offender is released (including for furloughs and work release) from a DOC facility or county jail following post-conviction incarceration. This change will require victims to make a written request for such notification. The report recommends that victim witness advocates encourage victims to complete the necessary notification forms.

<sup>32</sup> In the great majority of cases, those accused of a DV crime are bailed out, so in some cases the police reports may not be received at the prosecutor's office until several days or even weeks after the incident.

<sup>33</sup> Some prosecutors interpret the Maine Criminal Justice Information Act to say that they cannot tell a victim why a case was "no-complained," while others interpret the statute more liberally and believe that the victim is entitled to see the investigative file. One prosecutor invites victims who are displeased with the decision not to file charges to come to the office and review the file, usually with the victim witness advocate.

violence case that involved them. In only one of the offices does the VWA notify victims of the dates of judicial review hearings.

Community-based advocates would like to see more consistent communication to victims, regardless of their level of cooperation with the prosecutor's office. Some victims say they are afraid and don't trust the court system. The fact that they don't respond to the prosecutor's office should not be interpreted to mean that they don't want information, particularly information about the final disposition of the case. Following are a couple of examples of initiatives that involve providing important information to victims:

- a. In Portland, probation and the victim advocacy organization are collaborating on sending letters out to victims on Department of Corrections letterhead, informing the victim that the offender is on probation, providing the conditions of probation, contact information for the agency and for probation, and explaining that confidential communications need to go through the advocates. (See Appendix G, DOC letter to victim.)
- b. Batterers intervention programs contact the victim partners of participants by letter or by phone, informing them about the local victim advocacy organization and services available to them. (See Appendix H, sample BIP letter to victim)

### High Percentage of Female Criminal and PFA Defendants

Criminal court data collected at four of the pilot site courts--Skowhegan, Waterville, York, and Springvale--show that 17% (111 out of 665) of the criminal defendants in these courts are female. (See Table 4 below.) Interestingly, this percentage does not vary significantly from court to court: it ranges from 16 to 21%. (See Appendix I, Criminal Data Tables.) Likewise, protection from abuse hearing data collected at all five of the court sites show that 22% (412 out of a total of 1,888) of PFA defendants are female. (See Table 4 and Appendix J, PFA Data Tables.) While the criminal data does not tell us how many of these cases involve same sex relationships,<sup>34</sup> it does support reports from judges and prosecutors that they are seeing "more and more" female defendants.<sup>35</sup> Numerous stakeholders have expressed concern over this.

<b>Table 4: Case Statistics (Jan. 2004-June 2005)</b>	<b><i>Criminal (4 courts)</i></b>		<b><i>PFA (5 courts)</i></b>	
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
No. of defendants/docket #s	665		1888	
No. of hearings	1053		2591	
No. of males	554	83%	1474	78%
No. of females	111	17%	412	22%

<sup>34</sup> The data regarding protection from abuse cases does contain information reflecting when the gender of the defendant and the plaintiff are the same: there were 49 male and 41 female same-sex cases, out of total of 1346 cases. (See Appendix J, Protection from Abuse tables.) It should be noted that the criminal numbers, as well as the protection from abuse numbers, may include family members of the same sex. A judge also reported that fathers were using the PFA forum to try to change orders in which custody had been awarded to the mothers.

<sup>35</sup> There is little data available on female defendants in domestic violence cases, but following are examples of arrest rates for women in other states: 19% in Boulder, Colorado in 2004; 19% in California in 2001; 23.5% in Lancaster County, Nebraska in 2003; 23% in Concord, New Hampshire in 1999. *Women Arrested for Domestic Violence*, National Clearinghouse for the Defense of Battered Women, Philadelphia, PA (updated 2005).

One of the advisory committees has devoted a significant amount of time to the issue of appropriate resources for convicted female defendants and to understanding the differences between “battering” and being arrested and convicted for a domestic violence crime. Data shows that eight women in Skowhegan and Waterville courts (out of a total of 14 and 23 female defendants, respectively) were sentenced to anger management as a condition of probation. There are no BIPs or equivalent programs available to women, nor are there any statewide standards for certifying programs for women convicted of domestic violence crimes, as there are for men. Only one of the court locations in this Project has a program designed specifically for women convicted of domestic violence.

This advisory committee also expressed concerns regarding the differential impact of the statute on male and female defendants regarding the length of probation for DV offenders sentenced to a BIP, when there are no BIPs available to women.

There are several questions engendered by the data on female defendants:

- Is law enforcement arresting the predominant aggressor?
- Are prosecutors carefully screening cases with regard to the predominant aggressor issue?
- What is the definition of a “batterer”? When do female defendants fit that definition?
- If and when is it appropriate to have convicted female defendants ordered to judicial review hearings?<sup>36</sup>
- Is there a need for specialized programs for female defendants?

The coordinated community response model, represented by the advisory committees to DV dockets at the existing pilot sites, is an ideal forum for exploring these issues and discussing ways to address them where appropriate.

## **VI. IMPROVEMENTS SUGGESTED BY STAKEHOLDERS**

Stakeholders interviewed for this evaluation were asked to offer their suggestions for enhancements to protocols and practices implemented in the course of this pilot project. To avoid any confusion between recommendations made by stakeholders and those put forward by evaluators, it was decided to include the former in an appendix. (See Appendix K, Improvements Suggested by Stakeholders.)

Interestingly, many of the recommendations offered by stakeholders were also recommendations of the evaluators. Many of the suggestions for improvements were made by numerous stakeholders, including those who played different roles and who were located in different court sites. This points to a developing consensus among participants regarding what constitutes best practices in post-conviction review for DV offenders and to the importance of the coordinated community response that supports and strengthens that process. We strongly suggest that readers of this report review these suggestions.

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<sup>36</sup> The criminal case data and the judicial review data, which are contained in different databases, together suggest that a significant number of females convicted of DV are not being ordered to judicial review. Only 8.6% of the defendants in judicial review in the five courts are female. (See Appendices I and J, Criminal and JM Data Tables.)



## VII. DISCUSSION

The court's goals and objectives in this pilot project were clearly set out in the original application for funding, and this report has found that those goals and objectives have largely been met. However, several people interviewed for this final evaluation said that the goals of judicial review were not clear to them.

Here are some of the questions they asked:

- *Was judicial review designed primarily to monitor the offender's technical compliance with the conditions of probation, or was it meant to improve and even support the offender's compliance with those conditions?*
- *Is part of the purpose to support the probation officer and lend authority to the PO's recommendations? If so, can this be done effectively if the judicial review process is separate from the probation revocation hearing process, particularly when a different judge will preside over the revocation hearing?*
- *If one of the goals is to increase victim safety, how can the court know if the victim is truly safer, or feels safer, in the absence of any victim input?*
- *What are the measures of success for judicial monitoring? If offenders who do not comply with conditions are jailed sooner and at a higher rate than before, is that success? Is prompter participation in BIP and completing sooner a measure of success?*

In our view, these are excellent questions. They are the practical questions of committed people who are working to make victims of domestic violence and their families safer. Finding answers to these questions, and engaging in discussions to clarify what participants see as the goals of a domestic violence docket, are important and such efforts should be encouraged.

This lack of clarity regarding the goal(s) of judicial review expresses itself to some degree at the judicial review hearings, where we have observed a tension between the judge's role of holding accountable those DV offenders who are not complying and providing positive reinforcement for those offenders who are complying. Victim advocates have reported feeling uncomfortable when the judge congratulates an offender, or says things like "I'm proud of you," or "you're doing a great job." Everyone involved in this project, including the judges, agree that "this isn't drug court" and that the judge shouldn't hand out "pats on the back" to offenders who are doing what they are legally required to do to avoid incarceration. At the same time, there is a natural human tendency to reinforce what appears to be positive behavior in the hope that such reinforcement will lead to more positive behavior.

The fact is that no one (except the offender and the victim) knows what is really going on and whether the offender truly is making changes and is refraining from the abusive behaviors. If an offender appears to be complying with all conditions but in fact is

*"It's hard to sit there while they [the offenders] lie."*  
--Victim Advocate



not, a pat on the back from the judge could send a message to the victim that the judge is siding with the batterer. This argues eloquently for two of the recommendations that emerged from the final round of interviews:

- 1) Clarify the purpose and goals of judicial review hearings; and
- 2) Solicit victim input in the judicial review process.<sup>37</sup>

## **VIII. CONCLUSION: CLOSING THE CIRCLE**

While this evaluation was not designed to determine the impact of judicial review,<sup>38</sup> it hopefully contains useful information for courts as they go forward with existing domestic violence dockets or consider whether to establish a DV docket. Many of the recommendations contained in the executive summary relate to the sharing of information and to improving understanding and collaboration among the many partners who participate in the community's response to domestic violence. The importance of such collaboration is now well-established among those working to end domestic violence.<sup>39</sup> Evidence of this can be found in the fact that agencies and organizations applying for funding under the Violence against Women Act must demonstrate collaboration with other community partners (especially victim advocacy organizations) and must negotiate memoranda of understanding with partners to qualify for funding.

Our country's foremost researcher in the area of batterers' intervention programs, Edward Gondolf, has found that BIPs by themselves may not reduce recidivism in domestic violence offenders. However, Gondolf's research does suggest that a coordinated community response involving BIPs and including mandatory court review, as well as strong community supports for victims, may improve victim safety.<sup>40</sup>

The thrust of our recommendations are consistent with this principle. We believe that the most effective mechanisms for implementing the recommendations contained in this report are vehicles and forums that bring partners together: advisory committees, task forces, work groups, training, and cross-training are some of the possibilities.

A prosecutor interviewed for this evaluation said that at the beginning of prosecuting domestic violence cases, getting the conviction was the most important thing. Now, this person said, how the case is processed and developing a relationship with the victim are more important considerations. This suggests that what have historically been seen as competing agendas and different missions (i.e., supporting and empowering domestic violence victims

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<sup>37</sup> Soliciting victim input is not intended to mean pressuring victims to provide input if they don't wish to. The suggestion is to keep avenues of communication open, with the priority being *providing information and support* to the victim. Once the avenue is there, the victim has the opportunity to share information *should she choose to do so*. It should also be kept in mind that some victims may be more comfortable talking to a victim advocate, while others may prefer talking to a probation officer. That is why collaboration is vital—to insure that various avenues are offered as options in ways that are not burdensome to the victim.

<sup>38</sup> That type of determination would have required an experimental or quasi-experimental methodology. Neither time nor resources were sufficient to allow for that type of evaluation of this pilot project.

<sup>39</sup> Uekert, B. (2003) The Value of Coordinated Community Responses , *Criminology and Public Policy* 3:1 pp. 133-136.

<sup>40</sup> Gondolf, E., *Batterer Intervention Systems: Issues, Outcomes and Recommendations* (Sage Publications, Thousand Oaks, CA: 2001); Gondolf, E. (2000) "Mandatory court review and batterer program compliance." *Journal of Interpersonal Violence*, 15 (4): 428-437.

v. prosecution of a domestic violence crime) may not really be what they seem. Offender accountability, without consideration of the victim's needs and priorities, can deliver a prize of questionable value, as this prosecutor may have learned.

Finally, it is worth remembering that the highest price for community partners not making the effort to understand, to cooperate, to communicate, and to provide information and support to the victim will ultimately be paid by domestic violence victims themselves.

## **IX. POST SCRIPT: SUGGESTIONS FOR FUTURE RESEARCH**

It is hoped that research will be done, or completed and made available, to demonstrate with more specificity the positive outcomes of a post-conviction review docket for domestic violence defendants. While it is clear from interviews for this evaluation that DV defendants ordered to judicial monitoring register for and complete BIP classes sooner than defendants who are not, or were not, in judicial monitoring, it would be even more compelling to have numbers to attach to that assertion.<sup>41</sup> Positive outcomes for victims will be harder to measure, in part because of the difficulty of obtaining information from victims and the reluctance of victims to “re-live” their victimization in interviews with researchers. We should continue to search for non-invasive ways to obtain information that demonstrates that victims are safer, including collecting information on how often victims involved in court proceedings are linked to services and making use of victim advocates as proxies.

The extensive data collected in the course of this pilot project may contain useful information beyond what is contained in, and relevant to, this report. For example, there are 3500 PFA records in the database from the five pilot site courts. The court could take a closer look at issues such as lack of service of PFA orders, the number of dismissed orders v. the number of final orders entered, and other outcomes of final PFA hearings. The criminal data, with over 1,000 records, could be used to compare time spans, dispositions, and other elements in those four courts with data from courts without domestic violence dockets.

We recommend further research on how best to provide comprehensive information on court proceedings and support services to victims involved in criminal cases. This could be in the form of audits or needs assessments looking at how community-based victim advocates and those in prosecution offices currently work together, as well as best practices research on models of collaboration and information provision in other jurisdictions.

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<sup>41</sup> A comprehensive evaluation of the Judicial Oversight Demonstration Projects directed by Dr. Adele Harrell of the Urban Institute is nearing completion and is expected to contain comparison data that will demonstrate the impact of judicial monitoring with regard to particular outcomes.

## **APPENDIX A to DVCCP Final Evaluation**

### **Key Protocols from the DV Case Coordination Project**

July 27, 2005

**The purposes of the DV Case Coordination Project have been to:**

- 1) Coordinate the management of the civil protection from abuse docket and criminal domestic violence docket
- 2) Coordinate the sharing of information in civil protection from abuse cases and criminal domestic violence cases, and where appropriate, family matters and child protection cases.
- 3) Improve offender accountability
- 4) Enhance safety of victims and children
- 5) Strengthen the coordinated community response to domestic violence cases through regular advisory meetings involving the following participants:
  - a. Judges
  - b. Clerks – civil (protection orders)
  - c. Clerks--criminal
  - d. Prosecutors
  - e. Victim Witness Advocates
  - f. Probation
  - g. Court Security
  - h. Law enforcement
  - i. Victim Advocate Agencies
  - j. Certified Batterers Programs
  - k. Bail Commissioners
  - l. Bar

**What follows are protocols taken from the pilot projects of the Domestic Violence Case Coordination Project that are presented for consideration by other courts who wish to develop a domestic violence docket. They address practices by a range of participants, all of whom have important roles to play in enhancing the safety of domestic violence victims and their families and in improving accountability of offenders.**

**A. Judge:**

- ☐ Provide leadership in establishing and maintaining the CCR in their district and ensure broad participation, including from private attorneys
- ☐ Assign single judge to conduct Protection from Abuse and Judicial Review Dockets
- ☐ Review related case information to ensure consistency and appropriateness of temporary and final protection orders and of bail and sentencing orders
- ☐ Advise defendants of consequences of failure to comply with provisions of protection orders (including addressing firearms and immigration issues)
- ☐ Order periodic judicial review and attendance at certified batterer's intervention program (whenever possible) when sentencing for a domestic violence crime
- ☐ Notify defendant at sentencing of purpose and requirements of judicial review and the consequences of not attending
- ☐ Sign Judicial Review Order and provide copy to defendant at sentencing
- ☐ Monitor compliance with court orders at judicial review hearings, seeking input from defendants, probation officer, BIP staff, victim, victim advocate, prosecutor, and law enforcement
- ☐ Notify victims at protection order hearings of the presence in the courthouse of a victim advocate<sup>1</sup> to assist them with their complaints
- ☐ Advise victims, when present at sentencing or judicial review hearings, of their right to attend and participate in judicial review hearings and to provide information to the court

**B. Clerks: Criminal DV**

- ☐ Mark criminal court folder DV
- ☐ Provide upcoming judicial review dates to judges on the bench
- ☐ Ensure that the first judicial review date is on the probation condition form before the defendant leaves the courthouse
- ☐ Ensure that probation conditions are signed
- ☐ Docket judicial review date
- ☐ Print judicial review hearing list
- ☐ Screen every defendant in MEJIS statewide for related/additional court related activity before each review date
- ☐ For related cases, print docket sheet and place in manila envelope in criminal file
- ☐ Provide all non-confidential docket sheets from statewide search to DA and probation
- ☐ Provide a copy of judgment and committal, probation conditions and complaint to probation

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<sup>1</sup> "Victim advocate" refers to the victim advocate in the nongovernmental victim advocate agency. "Victim witness advocate" refers to the victim witness advocate in the prosecutor's office.

- ☐ Send, email or fax a judicial review list to DA, probation, batterers program and advocates at least a week in advance and then update the list, if necessary
- ☐ Call the list before the judge goes into the courtroom and pull files for those present in courtroom who are not on the list before judge goes on the bench

### ***C. Clerks: Civil – Protection Orders***

- ☐ Provide victim advocate agency contact information to victim when victim comes into court to file complaint for protection order
- ☐ Notify victim that she may seek assistance in completing complaint for protection order from victim advocate agency
- ☐ Assign certain PH cases (sexual assault and stalking) to PA docket and do not charge filing fees for these cases
- ☐ Screen both parties on all new PA complaints statewide and print the dockets and place in manila envelope in the file before giving the file to the judge to review for the temporary order
- ☐ Screen both parties statewide before hearing and repeat step above
- ☐ If a judicial review is part of a permanent order, docket the review date
- ☐ Provide victim advocates copies of PA docket list prior to the PA hearing date
- ☐ Provide victim advocates copies of final PA orders upon request

### ***D. Prosecutors:***

- ☐ Charge as DV crime in complaint
- ☐ Flag case as a DV case for clerk's office
- ☐ Ensure victim is kept fully informed of case progress and victim inquiries are addressed
- ☐ Provide police report to court (for inclusion in JR file) and probation at time of sentencing
- ☐ Ensure open communication between DA and Probation
- ☐ Notify probation (preferably before sentence is imposed) that defendant is going on probation so probation understands necessary level of supervision and whether defendant should be assigned to dedicated DV PO's case load
- ☐ Attend judicial review and provide case information at judicial review
- ☐ Attend probation revocation hearings
- ☐ When appropriate, recommend standard DV conditions of release
- ☐ When appropriate, recommend certified batterer's program as probation condition

***E. Victim Witness Assistants (Prosecutor's office)***

- ☐ Contact victim before disposition for victim input
- ☐ Notify victim of right to be present and be heard at dispositional hearing
- ☐ Provide disposition letter to victim and copy that letter to the victim advocate agency
- ☐ Refer victim to victim advocacy agency and provide contact information for agency
- ☐ Where possible, ensure open communication between victim witness advocates and victim advocate agency to improve understanding of participants' roles and how to better coordinate response and services

***F. Probation:***

- ☐ Make victim safety a priority
- ☐ Hold defendants accountable for not complying with conditions by imposing sanctions and filing motion to revoke probation
- ☐ Monitor for compliance with all probation conditions
- ☐ Monitor DV offender at a higher level than nonviolent offenders
- ☐ Contact victim by sending letter containing information regarding probation conditions, name of probation officer and contact information for victim advocate agency through either victim witness advocate or victim advocate agency
- ☐ When possible, assign in each prosecutorial district 1 dedicated DV probation officer for high-risk cases or 1 dedicated probation officer trained to handle high-risk DV defendants
- ☐ Limit caseload for dedicated DV probation officer
- ☐ Attend all judicial reviews in specified court
- ☐ Non-DV probation officers file compliance form with the DV PO or responsible PO, and the DV PO or responsible PO files the compliance forms with the court
- ☐ Ensure victim has pager and contact information
- ☐ Ensure open communication with BIP's
- ☐ Ensure open communication with agency victim advocates and victim witness advocate in prosecutor's office
- ☐ Cross train with victim advocates to improve understanding of participants' roles and how to better coordinate response and services

***G. Court Security:<sup>2</sup>***

- ☐ Make victim safety a priority

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<sup>2</sup> Recommendation is for all courts, not just pilot project sites, provided there are sufficient resources.

- ☐ Make pre-court announcement of court rules (e.g., contact is subject to arrest) just before the call of the PA docket
- ☐ Assign, whenever possible, two court officers for the PA/DV docket
- ☐ Ensure one officer remains in the courtroom if the defendants and plaintiffs are there together during PA docket
- ☐ Ensure security presence in the courthouse prior to courtroom opening for PA docket
- ☐ Ensure enhanced screening during PA days
- ☐ Monitor courthouse at all times during PA days
- ☐ Provide periodic DV training for all court officers

***H. Law Enforcement*** (including Sheriff's Department and local law enforcement agency):

- ☐ Make DV crimes a high priority
- ☐ Promptly provide prosecutors and bail commissioners with police report including DV worksheet
- ☐ Notify victim of defendant's release<sup>3</sup>
- ☐ Obtain victim information and provide to victim advocates
- ☐ Set first appearance date w/in 30 days of arrest
- ☐ Report all violations of bail to DA
- ☐ Report all violations of probation to probation officer
- ☐ Complete third party contact information on DV worksheet; include mailing address if different from residential address

***I. Victim Advocate Agency:***

- ☐ Assist victim in filling out a complaint for a protection order
- ☐ Attend PA hearings as a resource to victims
- ☐ Maintain open communication with probation and prosecutor's office within Agency's confidentiality limits
- ☐ Send letter to victims containing information regarding probation conditions, name of probation officer and victim advocacy agency contact information, and explaining confidentiality in the sharing of information regarding the defendant
- ☐ Advise court of security risks at protection from abuse and criminal hearings
- ☐ Cross train with probation and prosecutors to improve understanding of participants' roles and how to better coordinate response and services

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<sup>3</sup> It is recommended that with respect to felony DV cases, the Department of Corrections ensure that the victim is notified before defendant's release from incarceration.

***J. Certified Batterers Programs:***

- ☐ Advise court of security risks
- ☐ Notify prosecutors and probation when batterer does not follow through with requirements of certified batterers' program
- ☐ Provide periodic and timely reports to probation and court of batterer's progress in program
- ☐ When possible, attend judicial reviews
- ☐ Ensure open communication between BIP and probation

***K. Bail Commissioners:***

- ☐ Include as conditions of bail the following: no contact with victim, no use or possession of substances where suspect was affected and no use or possession of weapons where suspect has used or threatened to use a weapon
- ☐ Obtain suspect's criminal history and police report with DV worksheet before setting bail
- ☐ Exercise right not to set bail in the appropriate case and to defer to the court in the setting of bail
- ☐ Avoid conflict with existing conditions of probation, bail, and protection orders
- ☐ Obtain a residence address from the defendant
- ☐ Fill out legibly all required fields on the new bail bonds

***L. Bar:***

- ☐ Advise court of security issues
- ☐ Explain terms of orders and consequences of violations of court orders to clients, including the costs and length of certified batterers' program
- ☐ Attend periodic DV training
- ☐ Participate in coordinated community response meetings



**DVCCP Final Evaluation**  
**Judicial Monitoring Data**  
**January 04 – June 05**

<b>Overall Statistics—All Courts</b>	<b>#</b>	<b>%</b>
Number of defendants/docket #s	464	
Number of hearings	1201	
Number of males	427	92%
Number of females	37	8%

<b>Portland District Court</b>	
<i>(Based on data collected from 1/15/2004 through 5/19/2005)</i>	
Number of defendants	136
Number of male defendants	131
Number of female defendants	5
Number of defendants pending <sup>1</sup>	41
Number of hearings	314
Number in compliance with BIP	173
Number failures to appear	61
Number completing requirements	46
Avg. time from conviction to completion	9.9 mos.

<b>Cumberland County Superior Court</b>	
<i>(Based on data collected from 1/15/2004 through 5/19/2005)</i>	
Unique number of defendants	90
Unique male defendants	88
Unique female defendants	2
Number pending defendants <sup>2</sup>	27
Number of Hearings	176
Number in compliance with BIP	102
Number failures to appear	37
Number completing requirements	41
Average time from conviction to completion	11.2 mos.

<sup>1</sup> These are cases that began in judicial review prior to January of 2004. It is an estimate, since previous data contained both Portland District and Cumberland County Superior Court cases. The number has been prorated based on the number of cases in these courts in the 2004-2005 database. Genders are not known for these defendants.

<sup>2</sup> See note 1.

<b>Skowhegan District Court</b>	
<i>(Based on data collected from 7/5/2004 through 3/7/2005)</i>	
Unique number of defendants	15
Unique male defendants	12
Unique female defendants	3
Number of hearings	35
Number in compliance with BIP	22
Number failures to appear	2
Number completing requirements	0

<b>Waterville District Court</b>	
<i>(Based on data collected from 7/27/2004 through 4/19/2005)</i>	
Unique number of defendants	47
Unique male defendants	41
Unique female defendants	6
Number of hearings	125
Number in compliance with BIP	74
Number failures to appear	17
Number completing requirements	1
Average time from conviction to completion	5 mos.

<b>York District Court</b>	
<i>(Based on data collected from 1/5/2004 through 6/14/2005)</i>	
Unique number of defendants	75
Number pending defendants <sup>3</sup>	26
Unique male defendants	65
Unique female defendants	10
Number of hearings	235
Number in compliance with BIP	122
Number failures to appear	17
Number completing requirements	25
Average time from conviction to completion	11.2 mos.

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<sup>3</sup> These are cases that began in judicial review prior to January of 2004. The number of defendants has been estimated and prorated, as it was for the Portland and Cumberland County courts, based on the pending number that included both York District and York Superior Court defendants.

<b>York County Superior Court</b>	
<i>(Based on data collected from 6/27/2004 through 4/19/2005)</i>	
Unique number of defendants	7
Unique male defendants	6
Unique female defendants	1
Number pending <sup>4</sup>	2
Number of hearings	17
Number in compliance with BIP	9
Number failures to appear	5
Number completing requirements	1
Average time from conviction to completion	7 mos.

<b>Springvale District Court</b>	
<i>(Based on data collected from 5/16/2004 through 6/12/2005)</i>	
Unique number of defendants	92
Unique male defendants	82
Unique female defendants	10
Number of hearings	299
Number in compliance with BIP	132
Number of failures to appear	15
Number completing requirements	20
Average time from conviction to completion	11.3 mos.

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<sup>4</sup> See Note 3.

**APPENDIX C:**  
**Evaluation of DV Case Coordination Project**  
**Final Post-Survey**

**Goals:** *To gather information and make recommendations about*

- A. The sharing of information regarding pending DV criminal and civil cases and orders and the sharing of information among community partners;*
- B. The coordinated management of related DV criminal and civil cases and orders;*
- C. Systematic review of offenders' compliance with court orders and sentencing judgments; and*
- D. Whether these practices and protocols are improving victim safety and offender accountability.*

**Background**

1. What is your role in this pilot project, and how long have you been involved in the work you are doing?

**CCR**

2. How do you interact and share information with other partners involved with domestic violence cases?

**Information-sharing**

3. Are you getting the information you need to make informed decisions or provide services that ensure victim safety and/or offender accountability? If not, what additional information would you like to have?

**Effectiveness of protocols**

4A. Have the protocols in this pilot project (e.g., providing related DV case information, relationships developed in the advisory committee meetings, judicial review hearings presided over by the same judge, participation of probation and BIPs at JR hearings, etc.) made a difference in your ability to serve/respond to/make decisions regarding victims and offenders in DV cases?

4B. Have they made a difference in terms of victim safety and/or offender accountability?

4C. Can you provide specific examples of the positive impact of the protocols?

Impact of Training

5. Did you attend the January 20 training with the Vera Institute? If so, did you implement or did you observe any changes in practices or protocols after the training? What do you believe or what have you observed to be the impact of those changes, if any?

Suggestions for Improvement

6. Is there room for (further) improvement in what your court is doing with its domestic violence docket? If so, what kind of changes would you recommend?

Key Practices and Protocols

7. What do you believe are the most important protocols or practices for other Maine courts to consider in developing their own DV docket? (Refer to “Draft Uniform Protocols” document as time allows, focusing on sections appropriate to the stakeholders. An alternative is to provide/e-mail the uniform protocols and ask them to e-mail comments.)

Unintended Consequences

8. Have there been any unintended consequences, positive or negative, of the domestic violence docket or of any of the protocols implemented as part of the pilot project?

# DVCCP Final Evaluation

## APPENDIX D List of Data Variables

Docket Number		
Date of Review		
Court		
Judge		
Def Last Name		
Def First Name		
Def Middle Initial		
Def Date of Birth		
Def Gender		
Offense(s)		
Conviction Date		
Type of Review		Civil
		Criminal
Disposition	Completed Requirements of Order	
	Failure to Appear	In Custody
		Probation Revoked
		No Info
		Probation to Revoke
		Probation to Inquire
		Warrant to Issue
	Sanctions Imposed	Incarceration
		Added Conditions
		Verbal Warning
		Other
		Describe
		Reason for Sanction
	Failure to Comply with Conditions	
	Contact with Victim	Compliance
		Judges Instruction/Warnings
	No Alcohol or Drugs	Compliance
		Judges Instruction/Warnings
	Substance Abuse	Compliance

	Eval /Counseling	Judges Instruction/Warnings
	Psychological Eval/Counseling	Compliance
		Judges Instruction/Warnings
	Certified Batterers Intervention	Compliance
		Judges Instruction/Warnings
	Parenting Education	Compliance
		Judges Instruction/Warnings
	Child Support	Compliance
		Judges Instruction/Warnings
	Other	Compliance
		Judges Instruction/Warnings
	Input From	BIP
Probation		
DA		
Pre-Trial		
Advocate		
Victim		
Other		
Next Review Date		
Observations		

## APPENDIX E: STATUS OF PROTOCOLS (as of June 2005)

<i>Protocol</i>	<i>Status (at pilot sites only)</i>	<i>Comments</i>	<i>Issues</i>
<b>PROTECTION FROM ABUSE HEARINGS</b>			
<i>Information-sharing (to judges)</i>			
<p>Clerks provide judges with information on cases and court orders involving the same parties for emergency protection orders and final PO hearings, and at bail and sentencing hearings:</p> <ul style="list-style-type: none"> <li>• Current or recent protection orders</li> <li>• Current bail conditions</li> <li>• Current probation conditions</li> <li>• Family matters</li> <li>• Child protective cases</li> <li>• Defendant's criminal history</li> </ul>	<p>All courts.</p> <p>Differences: Some judges request information broader than those involving the same parties, some request entire files, some review docket sheets only.</p>	<p>Possibility of prejudicial effect</p> <p>Prevents judge-shopping<sup>1</sup></p> <p>Ensures consistency of orders</p>	<p>Should only information on cases involving the same parties be included, or should previous unrelated DV convictions and Protection orders be included</p>
<i>Information-sharing (to victims)</i>			
PFA clerks provide victims with information regarding victim advocacy agency when victims request paperwork for emergency protection order	All courts	<p>Many victims are distraught and not able to think clearly. Clerks are not allowed to assist them with the content of the order.</p> <p>Advocates are available but often are not called except in most extreme cases or non-English-speaking</p>	<p>Does informing victims that advocates are available to assist them with filling out the protection order complaint violate court guidelines re neutrality with regard to service providers</p>
Judge at PFA hearing informs victims of presence of advocates to assist them if they are unrepresented	All courts where DV judges preside over PFA hearings	Some judges not directly involved in pilot project don't do this	DV training may be necessary for other judges
<i>Information sharing (to victim advocates)</i>			
Clerk provides copies of all protection order complaints to victim advocacy agency	<p>One court provides copies of docket list of scheduled PFA cases; one court provides copies of all complaints</p>		

<sup>1</sup> One judge reported that someone who was seeking a protection from abuse order in that judge's court had been denied the order in another jurisdiction in Maine. The clerk's review in MEJIS had discovered this. [ARE DENIED ORDERS ALWAYS ENTERED INTO MEJIS?]



<i>Information sharing (to defendants)</i>			
Information is provided to defendants at PFA hearings regarding meaning of order and consequences of violating	One court provides to all defs, whether represented or not; one other court provides selectively to defs, mostly to those without attys		Lack of equity for defendants who are not represented; lack of understanding of orders by defs. can endanger victims
<i>Misc.</i>			
DV advocates attend all PFA hearings	All courts		
Defendants violating PFA order at courthouse are arrested	Some courts	Officer may need to stay in courtroom with judge	Resources
Court security officers available in courtroom and lobbies before session and during recesses	Rare	Dangerous time for victims	Resources
JUDICIAL REVIEWS			
Mandated appearance of offenders sentenced to probation before a judge at reasonable intervals after sentencing, with verification that offender is complying with conditions of probation	All courts	Variations among courts in amount of time between hearings	Defs. may transfer to superior court to avoid this requirement and to avoid 48-week BIP
BIP providers and probation officers provide info to court on offender compliance prior to judicial review hearings	All courts		
Clerks do updated MEJIS search for new charges, etc., on offenders prior to judicial review hearings	Two courts	Events may occur prior to hearing, such as the issuing of a protection order, that prosecutors and probation officers are not aware of	Availability of clerk time to conduct updated searches
Victims informed of dates of judicial review hearings	In two courts victims are informed by the VWA; probation informs	Prosecutor's office involvement with victim ends with sentencing	
Probation officers and BIP providers attend	Probation officers attend in all courts; BIP providers attend in all but two courts		
Sanctions (including incarceration) imposed at JR hearing for failure to appear or failure to comply	One court issues bench warrants at JR hearings for FTA	No clear statutory authority for imposing sanctions from the bench, except at probation hearing; due process issues	Request statutory clarification regarding judicial reviews Can probation officer order arrest at hearing

Solicit information and input from probation, BIP, victim, others	Varies from court to court. All judges ask probation for input.	Input from BIP and probation and others reinforces effect of “many eyes on the offender” and supports authority of BIP and PO	
CRIMINAL CASES			
Law enforcement provides police reports on DV arrests to victim advocates	Two depts. in two courts do this		
Expedited arraignments and trials in DV cases	One court	Promotes early pleas, less time for def. to intimidate or manipulate victim	
Victims provided with information regarding charges, hearings, pleas, no complaints, dispositions, probation conditions	Varies. All prosecutor’s offices send initial letter to victim informing of charges and contact info for VWA	Criminal History Reporting Act interpreted differently; burden on victim to contact VWA after initial letter or call	CHRA—does it need clarification? Lack of consistency in VWA practices in different prosecutor’s offices
Victims provided with information regarding victim advocacy agency	Varies. Some VWA refer victims over the phone, some send brochure, some send no information	VAs and VWAs have different missions; some areas have had conflicts	Can conflicts and bad history be repaired
MISC.			
Bail commissioners only set bail after receiving necessary information <sup>2</sup>	Not known.	Jails under pressure to release offenders ASAP	

<sup>2</sup> 15 MRSA 1023, subsections 4 and 7 require bail commissioners to make a good faith effort to obtain this information before setting bail, and require training as a condition of appointment and continued service. This training curriculum has been delivered to all bail commissioners in Maine and will be offered by the training judges on an annual basis

## APPENDIX F (1) to DVCCP Final Evaluation

# Protection From Abuse Order Notice

**\*\*\*This restraining order is in full effect until the next hearing date noted on the order\*\*\***

**\*If you violate a Protection from Abuse order (PFA), you could go to jail\***

Attached is an order issued by a Cumberland County District judge. It tells you **what you CANNOT do**. You should read the order, understand it, and obey it. The enclosed information sheet gives you more details and examples.

Shawn P. LaGrega, from Maine Pretrial Services, is available at the courthouse on Friday mornings during hearings. He is there to answer your questions and to explain the PFA process to you. He can also help with referrals to:

- Shelter
- Job training
- Substance abuse treatment
- Domestic violence education programs

### **HE CANNOT GIVE YOU LEGAL ADVICE OR INFORM YOU OF WHAT TYPES OF DECISIONS TO MAKE!!**

**Violating this order is a crime and you can be arrested!!** If you are found guilty of violating the order, **you can be sentenced to the Cumberland County Jail for up to 1 year and fined up to \$2000.00**. A violation of this order may also affect your ability to obtain or maintain public housing and/or employment. For people who are not United States citizens, a conviction for violating an order may result in deportation proceedings.

This order may prohibit possession of a firearm. Violation of this provision of the order is a state crime. In addition, possession of a firearm while the order is in effect may violate federal law, even if the order allows firearm possession under state law!

**Only a judge can change this order!** Even if the person who applied for this order contacts you, the order is still in effect. You can be arrested for having any contact that is forbidden by this order.

*We are committed to making sure that you have the information you need to make good decisions for yourself, your family, and our community.*

## APPENDIX F(2) TO DVCCP FINAL EVALUATION

### PROTECTION FROM ABUSE INFORMATION SHEET

A protection from abuse (PFA) order is a court issued by a judge, **not** an agreement between the people involved. It is sometimes known as a “restraining order” or “no contact” order. **Only a judge can change the order.** The person who requested the order **cannot** make the order go away or change the order by deciding that it’s alright to have contact with other person. This applies to both temporary and permanent orders. Please read the order carefully.

♦ **“Prohibited from having any contact” means NO CONTACT .** This means:

1. You cannot live with the person listed in the order
2. No physical contact. You must stay as far away from the person and any children included in the order as the judge has specified
3. No phone calls
4. No letters or cards
5. No flowers, no boxes of candy, no present of any kind
6. No emails, text messages
7. No messages through other people including friends, relatives, or others
8. You cannot have contact in the court house or in the court room
9. You cannot return to any addresses listed on the order

#### IMPORTANT THINGS TO KNOW:

- A protection from abuse order is a civil order, but **if you violate the order, you have committed a criminal offense.** This crime is punishable by up to 1 year in jail and up to a \$2,000.00 fine. If you are arrested and found guilty, you can be put on probation or jailed.
- A law enforcement officer **must make an arrest** if he arrives on a scene where you are violating a “no contact” protection from the abuse order.
- **Law enforcement and the District Attorney’s Office** will pursue any violations reported of the no contact order.
- A criminal conviction on a domestic violence case **can affect your ability to get a job, to get or maintain public housing, or citizenship. It can result in a person being deported! It may also result in a permanent ban on the possession of a firearm under federal law.**
- To change or terminate an order, the person who requested the order must go to court Mon-Fri: 8:30 a.m.- 4:30 p.m. and make a written request to the judge. **Only a judge can change the order!** Usually the judge will not change the terms of an order until after you get notice of the request and court hearing is held. If you have been told that the court order has been dismissed, **call the court to make sure that this is true.**
- **Bail conditions in a pending criminal case are separate from the conditions contained in a PFA order.** If your PFA order is dismissed, you still may be prohibited from having contact as a condition of your bail.
- Possession of a firearm while the protection order is in effect may violate federal law, even if the order allows the possession of a firearm.

## WHAT YOU CAN DO TO AVOID PROBLEMS:

- **Avoid places where you know the person goes.**
- **Leave a restaurant, store, house or other building as soon as you realize that the other person is there.**
- **Hang up the phone immediately if the person calls you.**
- **Avoid contact with the person's family or friends.**
- **Do not get into arguments or confrontations with the person's family or friends. Walk away!**
- **If the other person comes to your house, DO NOT let her/him in. Don't open the door until you know who is there.**

## EXAMPLES OF WHAT TO DO:

1. If you see the person walking towards you on the street, cross the street and go in a different direction.
2. You are eating dinner in a restaurant and the person walks in. You need to avoid any contact with him/her, get up, pay the bill, and leave.
3. You are in the theater waiting to see a movie and the person walks in. Get up and leave.
4. The person calls and asks you to come over for dinner or for Valentine's Day or just to work things out. **Do not go.** First, you should have hung up before this conversation started. Second, do not make the situation worse. Do not violate the order by talking to or visiting the person.
5. If the person calls you and you can tell me what she/he said, **you** have violated the order. You should have hung up as soon as you heard the person's voice.
6. If you are told that the restraining order has been changed or vacated and you can have contact, check with the court that issued the order first. Until you see a court paper with that information on it, do not have any contact with that person.

## **APPENDIX G to DVCCP Final Evaluation**

### **Probation Officer Letter to Victim**

[Department of Corrections Letterhead]

Date:

To:

Defendant:

Dear

I am writing to inform you that I am the assigned probation officer to the defendant. As their probation officer, my role is to monitor their compliance with their conditions of probation as well as other court orders including child support and protection from abuse orders. *Please see the attached copy of their conditions of probation.*

The Department of Corrections is interested in providing you with information to increase your safety, as well as obtaining information that will help us in making recommendations. However, you should be aware that any information provided to me may not be confidential and could potentially be shared with the Court at any time.

If you have concerns that you prefer not to share with the Court, we encourage you to speak with advocates from [local domestic violence advocacy agency] at: [phone number of agency]. Your conversations with them will be held in confidence. In addition, [local domestic violence advocacy agency] offers assistance with a variety of services including: shelter, safety planning, support groups and filing protection orders.

If at any time you are feeling unsafe, please contact your local police department (911) for immediate assistance. I would ask you to contact me regarding anything that may concern you as well. If you have any information that may assist with my supervision or have any questions/concerns regarding the defendant's probation please feel free to contact me at [probation officer's phone number]. If I am not available, you may contact my supervisor at [supervisor's phone number].

Sincerely,

## APPENDIX H to DVCCP Final Evaluation

### Letter Sent by BIP to Partners/Victims of BIP Participants

Date

Name

Address

City State Zip

Dear Name:

I am writing to let you know that [offender's name] registered to attend the Domestic Violence Classes for Men. Name gave us your name as either his current partner or other woman that he abused that resulted in his being sent here.

[offender's name] will attend classes, which will provide him with up to date information about all aspects of domestic violence and how to end it in this country. However, regardless of the information given, it is important to know that most men continue to be abusive during and after the period of time that they are attending classes.

If [offender's name] is abusive to you, please consider the following guidelines:

1. Emergency: Call the police and/or [local victim advocacy agency] 24 hour hotline 1-(800)-xxx-xxxx
2. in a non-emergency: Call the police, contact Probation , the District Attorney's Office or an advocate at 1-(800)-xxx-xxxx.

*If you are not sure about what to do, please call [local victim advocacy agency] at 1-800-xxx-xxxx. An Advocate is available to discuss your options and to support you in making your own decisions.*

If you have questions about the Classes or about services for you in [city or county], please call [local victim advocacy agency]. Your safety may be enhanced by information you will receive when talking to an advocate or by attending a battered women's support group. Please also note the enclosed brochure and the Partner's Information Guide to Domestic Violence Classes for Men.

For help, support, information – or to answer any questions you may have, please call local victim advocacy agency at 1- (800) xxx-xxxx and ask for an advocate. They look forward to hearing from you.

Sincerely,

[Executive Director of local victim advocacy agency]

## **A PARTNER'S GUIDE**

This guide was written for women.

The purpose of the **Domestic Violence Classes for Men (DVCM)** is to provide additional disposition for the court or an agent of the court to utilize with men in response to acts of domestic violence.

- When court ordered, participants attend a weekly 1 ½ hour class for a period of 48 weeks.
- The DVCM provide a fully developed curriculum of information about men's violence against women and how to end it in our communities.

It is important to know that your partner's attending the DVCM *does not mean that he will stop being abusive to you*. In the DVCM, instructors clarify that any man who chooses to stop all acts of domestic abuse – is (and always has been) able to do so. He has to want to – and be willing to live his life differently. Most men continue to be abusive (physically or emotionally) during and after attending these classes.

In the DVCM, participants are taught about all aspects of domestic abuse, including the impact it has on family members. Importantly, material is taught about the efforts being made in the community to improve services to battered women and their children. Participants are also taught about what is being done to make the criminal justice system effective in domestic abuse cases. There is great emphasis on the work being done with all segments of our community to create a climate where men – and everyone else – knows that domestic abuse is wrong, must stop – and will not be tolerated.

Women who are abused always are hopeful that their partners will change. Although men are capable of stopping their abuse, it is unlikely that participation in this or any “program” will result in them doing so. This is because men's abuse to their partners is rooted in history, laws and cultures that have entitled men to act in these ways. Men's abuse against their partners has been and continues to be supported by communities that have not taken domestic abuse seriously.

Some men decide that they want to see a therapist or counselor while they are taking the course. It is OK for them to participate in individual counseling. Some men, however, say they want to go to therapy or counseling as a way to “get out” of the order to attend the DVCM. This is *not* OK. *If your partner is serious about ending his abuse and wants therapy or counseling, he will find a way to participate in it at the same time or after he has complied with his court order!*

You should not participate in family or couples counseling with a partner who is abusing you. It is dangerous for you to do so.

If your partner is court ordered to attend, no service or program should replace or is the same as DVCM.



In some cases, men who attend DVCM increase the frequency and/or severity of their violence against their partners. Some men diminish or stop their physical abuse while increasing emotional abuse or other threatening behavior. In either case, please note the following:

Whether or not your partner continues to be abusive to you, it is strongly suggested that you have contact with:

[local victim advocacy agency]

**1 (800) xxx-xxxx**

24-Hour Hotline

If you are confused about what to do about any aspect of your relationship with your partner, an advocate will listen, will discuss your options and support you in making your own decisions.

**APPENDIX I to DVCCP Final Evaluation**  
**Criminal Case Data (for York, Springvale, Skowhegan, and Waterville)**  
**January 2004 – June 2005**

Overall Statistics—Four Courts			#	%
No. of defendants/docket numbers			665	
No. of hearings			1053	
No. of males			554	83%
No. of females			111	17%
Summary of Individual Court Criminal Data				
	Skowhegan (6/04-6/05)	Waterville (7/04-6/05)	York (1/04-6/05)	Springvale (5/04-6/05)
<i>General information</i>				
# Defendants/Docket #s	107	131	148	279
# Male Defendants	93	108	121	232
# Female Defendants	14 (13%)	23 (17.5%)	27 (18%)	47 (17%)
# Hearings	139	225	261	428
<i>Types of hearings</i>				
Arraignment	87	119	106	200
Bail	0	2	0	3
Amend bail	0	0	3	40
Trial	19	79	115	156
Sentencing	1	4	4	0
Probation (amend, revoke)	5	6	12	7
<i>Dispositions</i>				
Transferred	22	8	38	116
Dismissed	14	15	15	34
Filed	1	7	39	44
Settled	51	72	31	61
Pled at arraignment	39	34	11	25
Pled at trial	9	31	16	31
Continued	5	37	57	55
<i>Types of charges</i>				
Felony DV	6	9	10	15
Misdemeanor DV	105	166	219	393
Felony sexual assault	1	0	0	0
Misdemeanor sexual assault	2	0	3	0
Misdemeanor stalking	0	0	0	1
Violation of protection order	9	23	28	54
Bail violation	24	25	5	12
Other	15	28	80	93
<i>Time spans</i>				
Average time span from incident to arraignment (days)	5 days	2 days	12 days	13 days
Average time span from incident to disposition (days)	31 days	25.5 days	33 days	33 days

## APPENDIX J to DVCCP Final Evaluation

### Protection from Abuse Hearing Data January 04 – March 05

<b>Overall Statistics for PFA Cases (#s include all 5 Pilot Site Courts)</b>	<b>#/%</b>
No. of defendants/docket #s, unduplicated	1888
No. of hearings <sup>1</sup>	2591
No. of male defs	1474 (78%)
No. of female defs	412 (22%)
Same sex pls/defs—male	49 (3.6%)
Same sex pls/defs--female	41 (3%)
# of juvenile defs	11
# of juvenile plaintiffs	31

<b>Summary of Individual Court PFA Data</b>					
	<b>Portland</b>	<b>Skowhegan</b>	<b>Waterville</b>	<b>York</b>	<b>Springvale</b>
# Defendants/Docket #s	1005	195	177	186	323
# Male Defendants	787	157	137	141	252
# Female Defendants	218(22%)	38 (19.5%)	40 (22.6%)	45 (24%)	71(22%)
# Hearings	1361	237	209	273	511
Final PA hearings	1201	212	188	228	463
Motions to dissolve	64	13	10	12	19
Motions to amend	65	10	8	15	24
Motions for civil contempt	19	2	2	12	1
No service	136	5	6	18	37
Order entered	402	74	75	60	115
Order dismissed	562	112	91	106	173
Order amended	36	9	13	10	15
Case continued	327	38	23	82	96

<sup>1</sup> Of those hearings, 11 were Protection from Harassment (PFH), involving 6 unique cases. Sometimes, for their own reasons, victims of domestic violence do not wish to file for protection from abuse and will choose instead to file for protection from harassment. PFHs are also appropriate for sexual assault and stalking victims whose alleged perpetrators are not covered under Maine's domestic violence statute.

## **APPENDIX K to DVCCP Final Evaluation Improvements Suggested by Stakeholders**

### Judicial Review

- a. Consider having the same judge preside over probation revocation hearings for domestic violence offenders, and, if possible, combining the probation revocations with judicial review hearings.
- b. Clarify the authority of the judge to issue bench warrants or to order arrests of offenders who are not in compliance with conditions of probation, as appropriate. Consider having the probation officer arrest non-compliant offenders at the judicial review hearing, in the presence of other offenders.
- c. Encourage judges to impose an appropriate level of sanction or consequence for every failure to comply. Develop guidelines for specific consequences and sanctions to be imposed when a probationer fails to appear, or fails to comply with probation conditions.
- d. Solicit more direct input from defendants, probation officers, BIP providers, prosecutors, and victims. In addition to the offender's technical compliance with probation conditions, this input may address attitudes, behaviors, actions, and situations that pose risks to compliance and may indicate a need for more intensive supervision, even when the offender has not violated.

### Protection from Abuse Hearings

- e. Judge consistently states that victim advocates (and pro bono attorneys, where appropriate) are present and available to assist unrepresented victims.
- f. Court security available prior to protection from abuse hearings and during breaks in the session to monitor areas outside the courtroom.

### Information-sharing

- g. Law enforcement provides prosecutors and victim witness advocates with DV report immediately after incident, to allow for early victim contact.
- h. Law enforcement obtains secondary contact information (someone who will always know where the victim is if she is not at residence), and a mailing address, for all DV victims and provides to prosecutor's office.

### Victim safety

- i. Victim is notified when a case has been "no-complained," when probation conditions have been imposed, when offender begins attending BIP, when judicial review hearings are scheduled.
- j. Written and verbal information consistently provided to DV victims seeking protection orders regarding local victim services agencies, including information that advocates are able to assist them with completing the PFA complaint.

### Coordinated Community Response

- k. Regular meetings of the pilot site advisory committees to improve communication, share information, and monitor the implementation of protocols. Judges should provide leadership and invite stakeholders to participate; someone other than the judge should coordinate the meetings.<sup>1</sup>
- l. Participation of the following individuals in the advisory committee meetings: superior court judges; superior court prosecutors; court clerks who work directly with victims requesting PFA orders and/or clerks who supervise them; victim witness advocates; and defense attorneys
- m. Case management or case audit opportunities for stakeholders to learn about each other's roles and to improve the coordination of their responses to DV.
- n. Cross-training between victim advocates and probation and victim advocates and prosecution staff (including victim witness advocates)
- o. Cross-training involving law enforcement, jail personnel, and bail commissioners to improve understanding of their respective roles and of the importance of providing complete and accurate information to bail commissioners to enable them to make appropriate decisions in DV arrest

### Training

- p. Training to district and superior court judges on issues relating to conducting protection from abuse hearings and appropriate sentences for DV offenders (e.g., BIP rather than anger management)
- q. Training for clerks who respond to victims requesting emergency protection orders

### Criminal, Miscellaneous

- r. Closing the loophole that enables offenders to opt out of probation by choosing to serve out a short sentence (which is further shortened, at the rate of two days for one, when they agree to work at the jail), thus avoiding the 48-week BIP and judicial review requirements
- s. Encouraging bail commissioners to set higher and more appropriate bail amounts for DV crimes

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<sup>1</sup> In the initial stages of the implementation, these meetings should take place at least monthly; once protocols have been implemented, bimonthly meeting should be adequate, unless specific issues or problems arise.