

**Position Paper on  
Safety and Accountability: State  
Courts and Domestic Violence**

*Conference of State Court Administrators*

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**The Conference of State Court Administrators (COSCA)** was organized in 1953 and is composed of the principal court administrative officer in each of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the Territories of American Samoa, Guam, and the Virgin Islands.

**SAFETY AND ACCOUNTABILITY: STATE COURTS AND DOMESTIC VIOLENCE**

**I. Introduction**

Until relatively recently, domestic violence was perceived as a private affair - a personal matter between disputants. Courts did not handle domestic violence cases because domestic violence often was not illegal. It took decades of hard work from advocates -- both within and outside the courts -- to change this. Perhaps the most significant reform efforts occurred in the 1990s, with the passage of the federal Violence Against Women Act (VAWA). Along with VAWA came the passage of mandatory arrest laws, increased funding for services for victims, and the creation of special domestic violence prosecution and police units.

After statutes and case law had made it clear that domestic violence was against the law, cases involving domestic violence did indeed begin to flood into state courts in record numbers. Domestic violence cases come into courts in a variety of ways based on individual state laws -- including through the criminal courts, family courts and matrimonial courts. In addition, domestic violence may also be the underlying problem in cases that are seemingly not family-related, such as housing, bankruptcy and fraud. In total, the National Center for State Courts reports that from 1984 to 1997, the number of domestic violence cases in state courts increased by 77 percent.<sup>1</sup>

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<sup>1</sup> Rottman, David and Casey, Pamela. "Therapeutic Jurisprudence and the Emergence of Problem-Solving Courts," *National Institute of Justice Journal* (July): 12-20.

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How have state courts responded to the massive influx of domestic violence cases? Initially, they handled them like all other cases. However, it has become increasingly obvious that domestic violence matters present unique and complex challenges to judges, attorneys, court administrators and other front-line justice professionals. New York's Chief Judge, Judith S. Kaye, frames the issue this way:

*“Not surprisingly, in many of today’s cases, the traditional approach yields unsatisfying results. The battered wife obtains a protective order, goes home and is beaten again. Every legal right of the litigants is protected, all procedures followed, yet we aren’t making a dent in the underlying problem.”*<sup>2</sup>

The problems with applying a conventional case processing approach to domestic violence cases are multifaceted. The sheer volume of cases makes it difficult for courts to provide the kind of intensive focus that domestic violence so clearly demands. In all too many instances, perpetrators leave court without any meaningful sanction for their criminal behavior. At the same time, many victims do not receive access to the kinds of services -- shelter, counseling, advocacy, etc. -- they so desperately need. Many victims choose not to pursue their cases because of the financial and emotional impact of leaving, and return, seemingly voluntarily, to the arms of the accused batterers. Perhaps unsurprisingly, many within the state courts become

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<sup>2</sup> . Kaye, Judith S. Making the Case for Hands-On Courts, Newsweek. October 11, 1999.

frustrated and complain that they see a lot of repeat business -- the same litigants returning to court again and again.

Recognizing the problems with conventional case processing, in recent years a number of state court systems have begun to test new approaches to cases involving domestic violence. These initiatives (many of which are catalogued in Section III of this paper) include specialized court parts, community-based service delivery models and new partnerships with both victim advocacy groups and batterer intervention programs.

While the research literature about the efficacy of these programs is still emerging, it is possible to identify a number of underlying common principles that support effective intervention in domestic violence cases. These include:

- Better Information Gathering: In order to craft meaningful court orders, judges, attorneys and court administrators must have a full picture of the cases in front of them. This means having access to all relevant and up-to-the minute information about the family, including their case history and existing court orders. It also means crafting orders with an understanding of the complexities of domestic violence, especially the powerful social and economic ties that bind victims to their abusers.
- Victim Safety: Given the unique nature of domestic violence, which typically involves a targeted victim and multiple incidents of abuse, courts must take every incidence of domestic violence seriously, striving to intervene before serious harm is

done, even if these are considered “minor” cases. And in so doing, courts must work with service providers to ensure that the unique needs and concerns of victims and their children are met. Unlike typical assault victims, they are often dependant on their assailant for housing, economic support, and childcare. Links should be made to victim advocacy that includes crisis services (i.e. shelter, safety planning, court accompaniment to hearings) as well as long-term services such as: access to counseling, job training, immigration services, child services, and other programs aimed at self-sufficiency.

- Enhanced Accountability: Defendants/Respondents must come to understand that domestic violence is unacceptable and that all incidents will be met with a meaningful judicial response. Moreover, respondents in domestic violence cases should be held directly accountable to the judge for their compliance with court orders rather than relying on victims to provide the information necessary to enforce court orders.
- Improved Access to Justice: Courts should work to ensure that families in crisis can access the courts easily and are provided with services that can assist litigants in understanding the court process and in filing necessary petitions. Legal and social service agencies often have specialized domestic violence services that can work in partnership with the court to make this possible.

- Judicial Leadership: Judges can be catalysts, using their authority to convene diverse agencies, both governmental and non-governmental, in order to enhance the interagency collaboration that is so critical to addressing domestic violence. In promoting inter-agency collaboration, courts should strive to promote communication, consistency, and continuing education about the courts and domestic violence.

While there are a number of encouraging programs underway across the country, no one should delude themselves into thinking that state courts have mastered the adjudication of domestic violence cases. This paper reviews some of the most pressing issues currently facing the field, highlights promising local initiatives from around the country and concludes by detailing a set of recommendations for state courts seeking to improve the judicial response to domestic violence.

## **II. Current Issues**

### *A. How Can Courts Effectively Address Victims' Diverse, and Sometimes Conflicting, Needs?*

Judges, court administrators, criminal and civil justice professionals and advocates all struggle with the frustration that occurs when a domestic violence victim drops a civil case or refuses to cooperate with the prosecution in a criminal matter. In particular, judges may lose patience with litigants who seem to be on a

“revolving door” -- coming back year after year with similar domestic violence allegations, but then refusing to follow through with the litigation. And because the adverse effects of domestic violence on children are well-documented, judges and other stakeholders may become concerned about the children’s well-being.

How can courts intervene properly in these cases? How can courts figure out what victims truly want/need when their stated desires are subject to being influenced by so many complex factors beyond the court’s control -- e.g. how recently the abusive incident took place, social pressures from their community, concern about the future of their children?

The dynamics of domestic violence, which involve power and control of the batterer over the victim, make this debate even more difficult. Are the available court remedies even what victims want or need? Efforts to eliminate abuse may be complicated by the victim’s survival instincts and dependence on the batterer’s income, housing, or immigration status (not to mention the impact of children or the affection that victims may still feel for their abusers). How can courts acknowledge that victims may have bona fide reasons for refusing to participate in the court system while also helping to minimize the pressures they face to recant their testimony or drop their complaints? How can courts act to promote the well-being of children without further penalizing the victims? Should a judge refuse to sign a civil

settlement that is unfair to the victim even though she may feel that her future safety depends on sacrificing her immediate best interests? These are among the most difficult questions that the criminal justice community must grapple with as it seeks to rethink the response to domestic violence.

It has become increasingly clear that the courts acting alone simply cannot respond effectively to the needs of victims. Rather, they must look outside the walls of the courthouse to involve new partners to help answer these difficult questions. These partners include battered women's shelters, victim agencies, supervised visitation centers, social service providers and community-based organizations (not to mention other government agencies). As domestic violence courts and the other initiatives detailed in Section III indicate, it is in fact possible for courts to collaborate with a broad range of outside partners while at the same time preserving their traditional neutrality and independence.

*B. Orders of Protection - Issuance, Implementation and Enforcement*

All states have legislation authorizing the issuance of civil orders of protection for domestic violence victims. In addition, many states provide for criminal orders of protection or use bail conditions to ensure victim safety in criminal domestic violence cases. Do these orders work? Increasing and persuasive evidence

suggests that both civil and criminal orders do indeed make a difference in enhancing the safety of domestic violence victims.<sup>3</sup>

Orders of protection can promote victim safety only if they are crafted with a view toward the victim's needs. First and foremost, it is critical that state courts ensure timely access to justice for domestic violence victims, since violence can happen at any time. But this means more than thinking through hours of operation -- it means making it easy to obtain orders and creating a welcoming, non-intimidating environment that includes separate waiting areas and well-trained court officers, clerks and interpreters. Section III describes some court programs that are taking on all of these challenges.

Ensuring that victims have meaningful access to the courts also calls for judicial training on how to ensure that orders of protection are effective. Court administrators should provide specialized training and bench books to judges, detailing the types of terms to include and the kinds of questions to ask that go beyond the obvious. Truly comprehensive orders must address critical safety issues such as the victim's housing, child support, and child custody needs. Additionally,

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<sup>3</sup> Holt, Victoria, Mary Kernic, Thomas Lumley, et al. "Civil Protection Orders and Risk of Subsequent Violence," *Journal of the American Medical Association*. Vol. 288, No.5 (2002).

judges must ask whether firearm protections or program compliance terms should be included.

States also need to grapple with the issue of enforcement. In particular, it is crucial that courts be able to enforce orders from other states. This is a very difficult task if the out-of-state order is not in the National Criminal Information Center (NCIC) -- a national computerized index of criminal justice information (criminal records, fugitives, stolen properties, missing persons) that is available to Federal, state, and local law enforcement and other criminal justice agencies. Most states have created their own databases to collect order of protection information because of the limitations of NCIC and use this to communicate with the NCIC system. If they haven't already, state courts should work to ensure that their states have created this kind of information architecture. And if the information technology is already in place, state courts should make sure that judges and court staff can easily retrieve past orders as well as enter new information in a timely manner.

Court administrators should also work collaboratively with criminal justice and domestic violence professionals to identify and disseminate best practices for sanctioning offenders who fail to comply with court orders. Depending on the nature of the violation, these sanctions can vary from increased appearances in court to short or medium-term jail sentences.

*C. Informed Judicial Decision-Making*

Domestic violence is a pattern of abuse that is perpetrated against a targeted victim. While it is the nature of courts to focus on discrete incidents, experience indicates that domestic violence cases typically emerge out of a long history of abuse, much of which may have gone unreported. This prior history of abuse is an important predictor for both the likelihood and the severity of re-offending. While it is not possible for judges to know about every incidence of unreported violence in a household, judges should have access to complete and regularly updated background information (with emphasis on prior orders of protection) in order to make informed decisions.

While the need for information gathering is clear, there are a number of questions that courts must answer: How can judges get the information they need before each court appearance? Are certain kinds of information inappropriate for the judge to see? Who else should have access to information about victims and defendants -- lawyers, police, victim advocates? Many judges have resolved these questions by reviewing the information while ensuring that the affected party has full knowledge of the contents of that information and can challenge it if appropriate.

Technology may be able to play another role in improving the judicial response to domestic violence. Can information be a tool for knitting together a

fractured criminal justice system, ensuring that one hand knows what the other is doing? Is it possible to use technology to improve judicial access to information while also safeguarding confidentiality? Computer technology has the ability to streamline the information process and ensure that relevant information flows continuously, quickly, and reliably to court personnel. In particular, courts need immediate access to statewide domestic violence registries of orders of protection and law enforcement information about the current incident and any past domestic violence incidents in order to make decisions on bail and sentencing. Court systems can work to integrate their computer technologies so that more information is available to the judge on the bench in real time in an effort to improve the quality of decision-making and the safety of victims.

Specialized domestic violence courts, many of which have experimented with state of the art technology, reveal that it is possible to protect litigants' rights and confidentiality while allowing judges access to the kind of information about prior cases and compliance that is essential to protecting victim safety.

*D. Judicial Monitoring and Efficacy of Interventions for Defendants/Respondents*

To date, research on the efficacy of mandated interventions for defendants/respondents reveals that domestic violence behaviors cannot be easily changed. Batterer intervention programs in particular do not seem to have long-term

effects and do not guarantee the safety of the victim. Nevertheless, many domestic violence courts utilize mandated batterer intervention programs as a monitoring tool and proportionate response to cases that may not allow for incarceration under state law.

Unlike batterer intervention programs, research indicates that on-going judicial monitoring can affect the behavior of batterers and keep them from re-offending -- at least during the period of judicial supervision.<sup>4</sup> Judicial monitoring may be an effective tool, but it places a greater burden on courts. The compliance monitoring done by judges in domestic violence cases often effectively doubles their caseload as defendants return to court on a regular basis to report on their performance. How can courts adequately monitor defendants while managing the strain on judicial resources? How can courts utilize mandated programs as a monitoring tool without sending the message to victims or the public that these interventions will succeed in changing behavior?

While these are legitimate concerns that each court system must navigate on its own, many have found that monitoring is possible by using judicial hearing officers or a graduated sanctioning system to manage their dockets. Additionally,

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<sup>4</sup> Dunford, 2000; Gondolf, 2000; Taylor, Davis & Maxwell, 2001.

proponents argue that investing resources upfront in monitoring domestic violence cases produces savings in future litigation down the road.

*E. Judicial Leadership and Training*

Any meaningful effort to address domestic violence will require courts to rethink their traditional emphasis on a purely reactive legal process. The challenge is how to fashion an assertive judicial role or presence in combating domestic violence that simultaneously preserves the courts' neutrality and incorruptibility as objective assessors of facts whose decisions are morally and legally legitimate. Judges may worry that their involvement in domestic violence initiatives will compromise their objectivity through close collaboration with attorneys, criminal justice professionals and victim advocates. These are legitimate concerns that temper how far judges can go in providing leadership, brokering and interagency collaboration. Recognizing the particular nature of domestic violence, COSCA recently renewed its policy commitment to fighting domestic violence:

*"... [C]ourts must work interdependently with agencies of other branches of government, their communities, and private service providers to ensure that the justice system responds effectively to domestic violence. .... The Conference of State Court Administrators is committed to working with other branches of government at the federal, state, and local levels in our respective roles to eliminate domestic violence."*

San Diego's Family Justice Center and Washington D.C.'s satellite intake center, described in Section III, offer provocative examples of inter-agency collaboration and can be used as successful models.

Judicial training is vital both to asserting judicial leadership appropriately and to making informed decisions. Judges and non-judicial personnel require in-depth and on-going training about the unique dynamics of domestic violence and the importance of collaboration with key partners like probation departments. It is critical, for example, that judges are trained to look for domestic violence -- which can often result in coerced or unsafe agreements -- before so ordering stipulated settlements in matrimonial, custody or other civil cases. Visitation and custody terms may become a tool of coercion and control where other means are unavailable.

Cross-training opportunities should also be available: educating judges, probation officers, advocates and other partners about the roles that each plays in the response to domestic violence is vital to ongoing coordination. Court systems should collaborate with national and community-based domestic violence agencies in order to provide this training on a wide range of domestic violence issues. Many local domestic violence agencies already coordinate conferences and seminars that are open to the community. By utilizing and leveraging these existing training

opportunities, court personnel can get up-to-date information on domestic violence issues.

*F. Integration and Management of Domestic Violence Litigation*

One of the most challenging aspects of domestic violence cases is how often different facets of a single case can be proceeding in multiple courts simultaneously. While a criminal domestic violence case is pending, civil matters (such as civil orders of protection, custody, visitation, child support, abuse and neglect and divorce) involving the same family may be before another judge in another part of the court system or even in another part of the city or county altogether. Here again, there is a need to understand the unique dynamics of domestic violence, including the propensity of many batterers to use the court system as a tool of abuse and power through repeated filings and drawn out litigation and to take advantage of these multiple possible venues. Nothing could be more damaging to victims' perceptions of courts and justice in general.

In order to prevent this and to facilitate meaningful access to justice, courts need to be aware of the full spectrum of cases affecting a family. By compartmentalizing domestic violence cases, courts run the risk of re-victimizing battered women and issuing conflicting orders. How can judges minimize the potential for conflicting orders and create better and more comprehensive outcomes

for families in crisis? Experiments in New York, as described more fully in Section III, have shown that an integrated multi-jurisdictional domestic violence court model can eliminate these information gaps and structural barriers to access for victims. Integrated domestic violence courts can solve problems as the victims experience them; results so far show that these courts can minimize the potential for conflicting orders and improve the victim's court experience.

*G. Cultural Competency and Domestic Violence*

The problem of domestic violence is not confined to a single race, religion or socioeconomic status. While the dynamics of domestic violence (recurring pattern of abuse and the use of power and control) are consistent, there are differences in how domestic violence is perceived and handled by different cultures. For example, victims (particularly recent immigrants) from countries where both the government and law enforcement are oppressive and not trusted tend to be more reluctant to report their abuse. Understanding the nuances of the victim's culture and how it intersects with domestic violence is crucial if judges are to effectively handle these cases and if courts are to be truly accessible to victims.

One aspect of accessibility often overlooked is court interpretation. Court interpreters have a great deal of influence in court proceedings, and many interpreters are not trained in domestic violence issues and are not effectively monitored by the

court system. Without appropriate safeguards, testimony may be colored by the interpreter's own prejudices and cultural beliefs. Court administrators should work vigorously through training, certification and monitoring to improve the interpretation resources available in state courts.

### **III. The Way Forward - Snapshots From Around the U.S.**

While the issues surrounding domestic violence are staggeringly complex, there are some examples from across the country that indicate that court systems and partner agencies can improve both victim safety and offender accountability.

#### *After Hours Access to Courts in Vermont:*

Vermont has sought to enhance victim safety by allowing litigants in Vermont to access the courts 24 hours a day for domestic violence cases. A statewide toll-free number allows victims to contact family courts after business hours. The answering service staff takes information from callers as to their location and the relief they are seeking, and provides the name, phone number and any other details regarding the caller to a designated court staff member. Court staff then contact the caller utilizing safety features such as "call blocking." After discussing the petition with the litigant and assessing whether the litigant needs to seek relief outside of normal court hours or can remain safe until the court opens, the staff person meets with the litigant at a police station or another 24 hour facility. The litigant completes the petition and the

court staff person notarizes it. Then, a judge is contacted via telephone and decides whether to grant a temporary order for relief from abuse. A hearing on whether to issue a final order is held within ten days.

Domestic Violence Division in Miami/Dade County, FL:

The Eleventh Judicial Circuit of Florida, which has created a specialized Domestic Violence Division consisting of seven domestic violence judges and support services, has harnessed judicial leadership to build cooperation across professions and forge a holistic approach to domestic violence cases.

The Division's support services include an Intake Unit and a Case Management Unit. The Intake Unit serves as a victim's first contact with the court, helping with an Injunction for Protection Against Domestic or Repeat Violence, and providing connections to community agencies. In addition, the Intake Unit offers information and referrals to respondents (alleged perpetrators) in need of assistance. The Case Management Unit assists the domestic violence judges in injunction cases regarding structured visitation schedules, child support, specialized court orders, treatment referrals, and case management. As the "customer service" arm of the Division, this unit also provides procedural information to parties in a case, and assists with scheduling emergency hearings and requests to change the conditions of an injunction.

*Domestic Violence and Integrated Domestic Violence Courts in New York:*

New York State has created specialized courts to handle domestic violence cases and improve the courts' ability to protect victims and hold defendants accountable. New York's domestic violence court model features a single specially-trained presiding judge, a fixed prosecutorial team, dedicated victim advocates from independent domestic violence agencies and enhanced court staff to monitor defendant compliance with orders and to provide assistance to victims. These courts serve high volume urban settings as well as suburban and rural areas and handle both felony and misdemeanor cases.

Building on this specialized, problem-solving court model, New York recently implemented Integrated Domestic Violence Courts across the State. These courts take a "one family, one judge" approach where a single judge hears all of the domestic violence cases, both criminal and civil, that are pending for one family. These courts address all of the issues facing a family in crisis in a comprehensive way by following a model which provides judges with access to all relevant orders and case histories; promotes consistent handling of all matters relating to one family; makes efficient use of court resources; and relies on partnerships with a range of government and community-based social service providers and other resources.

Family Justice Center in San Diego, CA:

The Family Justice Center in San Diego integrates case management and services for victims and their families. This community-based initiative brings together a wide array of domestic violence professionals under one roof. For the first time, victims have easy access to advocates, police officers, prosecutors, probation officers, civil attorneys, counselors, doctors and others -- approximately 120 professionals from 24 agencies, including the San Diego City Attorney, the San Diego Children's Hospital, the San Diego Volunteer Lawyers Program, and the Center for Community Solutions.

The Center's goals are simple: to improve service delivery by offering one-stop shopping; to reduce child abuse and domestic violence incidents; to hold batterers accountable. In order to support these goals, victims are also able to receive a court protective order immediately without leaving the Justice Center. The U.S. Department of Justice has recently endorsed San Diego's Family Justice Centers and is currently providing federal grants to other jurisdictions to replicate this model.

Domestic Violence Cabinet Council, Utah

In 1996, the State of Utah convened its first Cabinet Council. Since then, the Council has ensured that state government agencies work collaboratively by developing and implementing two-year state master plans for the prevention of

domestic violence and the provision of services to survivors. The Cabinet Council brings together representatives from the Administrative Office of the Courts, the State Attorney General's Office, the Department of Corrections, the Department of Health, the Department of Human Services, Department of Public Safety, Department of Workforce Services, and the Office of Education, under the direction of a Domestic Violence State Coordinator.

The Council's philosophy has three primary components: the right to safety for victims; the state's obligation to ensure accountability for perpetrators; and the importance of community collaboration. Its stated goals, which are measured and tracked, are to: coordinate and drive domestic violence response strategies; provide public education; ensure consistent and uniform implementation of laws by police, prosecution and the courts; maintain accountability over state agencies use of domestic violence funds; and to maximize local community coordination efforts.

Each participating agency develops yearly objectives in order to meet these goals. These objectives are evaluated at the end of the period to determine progress and next steps. The Council has succeeded in dramatically increasing the coordination between state agencies on all levels, bringing together the resources necessary to combat domestic violence.

Domestic Violence Satellite Intake Center, Washington, D.C.:

Technology has allowed Washington D.C. to increase the accessibility of its courts. The D.C. Superior Court opened its first satellite domestic violence intake center on October 30, 2002. A partnership of the Superior Court, Women Empowered Against Violence (WEAVE), the U.S. Attorney's Office for the District of Columbia, the Metropolitan Police Department, the Office of the Corporation Counsel, and the D.C. Coalition Against Domestic Violence, the center operates out of the Greater Southeast Community Hospital.

At the satellite intake center, domestic violence victims may petition for a temporary protection order via Web camera to a judge sitting in a courtroom. The Web hookup allows the petitioner and the judge to see and hear each other in real time. The court provides a specially-trained domestic violence clerk to assist with the proceedings, and an advocate from the crime victims' compensation program is stationed at the center to explain the resources that are available to victims and their families to deal with crime-related expenses.

On-site Collaboration with Non-profit Domestic Violence Agencies in Maryland:

The Maryland Judiciary's Department of Family Administration has placed special emphasis on providing quick, easy and affordable access to services for victims of domestic violence. In many instances, the courts provide space within the

courthouse as well as funding for programs providing safety planning and legal services to victims of domestic violence.

These programs were created to provide victims of domestic violence with a single site where they can receive advice, referrals, and safety planning, as well as legal representation. Immediately after receiving assistance, victims can petition the court for protection from domestic violence without having to leave the building. Participating agencies include the House of Ruth, the Women's Law Center of Maryland, Maryland's Volunteer Lawyer's Service, the Life Crisis Center and the YWCA.

*State of the Art Domestic Violence Courthouse, Chicago, Illinois:*

Cook County, Illinois is building victim safety and defendant accountability right into the very structure of its facility. A new modern courthouse is being designed to be “uniquely responsive” to people involved in domestic violence cases and to provide improved safety and security to victims and their families. The new facility will provide 10 courtrooms with full audio-visual capabilities, and elevators that will separate victims of domestic violence from their alleged perpetrators to avoid the acts of intimidation and threats of physical violence which often accompany court proceedings. The new courthouse will also offer separate facilities for children including a place to play and learn as well as receive medical attention and screening.

Victim advocates assisted in the design of the building which is scheduled to be completed in the summer of 2005.

Domestic Abuse Service Center, Minneapolis, Minnesota:

The Hennepin County Domestic Abuse Service Center provides comprehensive legal and support services to victims of domestic abuse who are seeking access to the judicial system. The Center offers a full range of services to domestic abuse victims and their families - including help with getting and serving orders for protection, legal advice from both city and county attorneys, as well as assistance in formulating safety plans and finding temporary housing. On-site advocates explain the court process and attend the hearing with victims. All of these services are available at one safe, convenient location in downtown Minneapolis. Partners in the Service Center include the courts, local police, the Hennepin County Attorney, Hennepin County Children & Family Services, Hennepin County Community Corrections, and community-based organizations, such as Asian Women United of Minnesota, Casa de Esperanza, Phyllis Wheatley Community Center, Pillsbury Neighborhood Services.

Emerge, Boston, MA:

Ensuring defendant accountability requires close collaboration with batterer education programs that send a message consistent with the court's focus. For example, Massachusetts has benefited from the Emerge Program, founded in 1977.

Emerge was the first abuser education program in the nation. Since its creation, Emerge has been a national leader in working to end violence in intimate relationships. Emerge seeks to educate individual abusers, prevent young people from learning to accept violence in their relationships, improve institutional responses to domestic violence, and increase public awareness about both the causes of and solutions to partner violence. Emerge teaches that domestic violence is a behavior, not a disease or a sickness. Emerge works with courts as a court-mandated program to allow judges to more effectively monitor defendants/respondents.

#### **IV. Recommendations**

**A. Analyze the current response to domestic violence cases:** Each state court system should undertake a survey of its current response to domestic violence in both criminal and civil cases. This national survey should elicit both quantitative and qualitative data. It should be designed to get an accurate sense of the number of domestic violence cases handled as well as the issues (both legal and social service) that routinely arise in these cases.

**B. Designate a single point of contact for domestic violence:** Each state should designate a single point of contact within the court administration to coordinate domestic violence issues. By creating an administrative position to manage domestic violence issues, courts can send a clear message about the importance of this issue and their commitment to rethinking business as usual.

**C. Adopt a statewide model identifying the essential elements and standards of domestic violence courts:** States should seek to adopt a statewide model of key essential elements for domestic violence courts that emphasizes victim safety and defendant accountability, access to the courts as well as judicial leadership and involvement in formulating a coordinated response to domestic violence. Court systems, through the work of the single point of contact, should strive to create consistency in the handling of domestic violence cases and the delivery of services to victims, in line with national best practices.

**D. Plan for an integrated, multi-jurisdictional response to domestic violence:** States should work to address the multi-jurisdictional needs of litigants by looking beyond just providing training on domestic violence, to make systemic reforms that eliminate gaps between criminal and civil proceedings while continuing to ensure due process. Courts should not ask families to travel to multiple sites to have their cases heard or have a hearing on a specific domestic violence incident where the court has no information on prior domestic violence history or orders.

**E. Dedicate sufficient resources to handling domestic violence cases:** Each state should allocate sufficient resources to courts that handle domestic violence cases. This might include resource coordinators -- court personnel who assist in monitoring defendant compliance and act as a liaison to victim service agencies. Resource allocation should also include a commitment to providing domestic violence courts with technology to keep judges on the bench

informed about domestic violence history and other pending cases. Courts should also make sure that their technology systems are providing order of protection information to the national criminal justice database (NCIC).

**F. Ensure that both judicial and non-judicial personnel are trained on domestic violence and cultural competency issues:** Court systems should require judicial and non-judicial personnel to be regularly trained and updated on both cultural competency and domestic violence. Training should include topics such as understanding the dynamics of domestic violence, best practices and protocols, the essential elements of successful domestic violence courts, current domestic violence case law and legislation, victim safety, and the use of court interpretation in domestic violence cases. Court administrators should actively seek to partner with local criminal justice and domestic violence professionals when planning their training and curricula. Court administrators need to ensure that proper training, certification and monitoring of interpreter services are ongoing.

**G. Provide Judges with the support that they need to participate in and lead multi-agency partnerships to combat domestic violence:** State court administrators should demonstrate to judges how to collaborate with new partners without violating ex-parte provisions or compromising the appearance of neutrality. This includes creating opportunities for peer education, allowing judges to teach each other how to address domestic violence in a way that is

consistent with the judicial role. Chief Judges, in particular, can lend credibility to this effort through their leadership and support.

**H. COSCA should establish a National Action Plan for the state court community that includes the following elements:** Forge closer partnerships with the Justice Department's Office on Violence Against Women; seek federal or other funding to conduct a nationwide survey of current court responses to domestic violence, to begin establishing a single point of contact within each state court system, and to convene a national conference to identify the essential elements and standards for effective state court responses to domestic violence; develop and promote judicial leadership in this area; conduct annual follow-up to monitor and evaluate the progress of reform efforts; and, direct a national research agenda to evaluate and identify effective court interventions that promote victim safety and offender accountability.

## **V. Conclusion**

Domestic violence is a unique crime that demands innovation from the entire court system -- and from community partners. The progressive nature of domestic violence -- which tends to become more and more violent -- underscores that courts cannot look only at individual cases. They must look for broader system outcomes, seeking to reduce recidivism, increase safety for victims, and improve inter-agency collaboration.

Courts alone cannot eliminate family violence, but they can play an important role, increasing accountability for offenders and safety for victims. Court administrators need to

continue to focus on the unique challenges posed by domestic violence and use the lessons learned from promising new court models and responses to guide the judiciary in its efforts to combat domestic violence.