





## **National Association** for **Court Management**

Julie Dybas, Chair  
Ariz 

Hon. Statia Hendrix  
Ariz 

Madelynn Herman  
Ariz 

Wendy Lyford  
Ariz 

Hon. Wendy Million  
Ariz 

Dawn Palermo  
Ariz 

Kimberly Piechowiak  
Ariz 

Kay Radwanski  
Ariz 

Heidy Yang  
Ariz 

Aurora Zamora  
Ariz 

# Table of Contents

---

<b>What Is Domestic Violence?</b> . . . . .	<b>1</b>
<b>I. Why Are Domestic Violence Cases Different?</b> . . . . .	<b>4</b>
<b>A. Introduction</b> . . . . .	<b>4</b>
1. Power and Control . . . . .	<b>4</b>
2. Intimate Partner Different than Family . . . . .	<b>5</b>
3. Who Are the Abusers and the Victims? . . . . .	<b>6</b>
<b>B. Behaviors of Abusers</b> . . . . .	<b>7</b>
1. Out of Court—What Do They Do to Maintain Control? . . . . .	<b>7</b>
2. In Court . . . . .	<b>8</b>
<b>C. Behaviors of Victims</b> . . . . .	<b>8</b>
1. Out of Court—Why Do They Stay? . . . . .	<b>8</b>
2. In Court . . . . .	<b>11</b>
<b>D. Lethality Issues</b> . . . . .	<b>13</b>
1. Lethality Factors . . . . .	<b>13</b>
2. Stalking and Electronic Harassment Information . . . . .	<b>15</b>
3. Firearms . . . . .	<b>16</b>
<b>II. What Can Courts Do?</b> . . . . .	<b>17</b>
<b>A. Ten Essential Elements for Effective Intervention         in Domestic Violence</b> . . . . .	<b>17</b>
<b>B. Court Security Measures</b> . . . . .	<b>20</b>
<b>C. Ethical Issues</b> . . . . .	<b>21</b>
<b>D. Procedural Justice Issues</b> . . . . .	<b>22</b>
<b>III. Protective Order Issues</b> . . . . .	<b>24</b>
<b>IV. Family Law Issues</b> . . . . .	<b>27</b>
<b>V. Specialized DV Courts</b> . . . . .	<b>29</b>
<b>VI. Domestic Violence Offender Treatment</b> . . . . .	<b>31</b>



their “batterers.”<sup>1</sup> These one-size-fits-all tags reinforced the idea that domestic violence is always defined by severe physical and emotional abuse. Over time, though, research has come to show that not all abusive behavior displays the characteristics of coercive controlling violence and that other patterns of intimate-partner violence exist.

Awareness of these additional patterns—and particularly the context in which the violence has occurred—is helpful in knowing what services to provide, shaping parenting plans, determining legal custody, protecting the victim, and holding the offender accountable.<sup>2</sup> Nevertheless, caution is advised. “While critics concur that not all violence is the same—rather it is important to assess the context of violent acts—they do not generally endorse differentiation of violence into various types, or they consider it premature to do so. They are wary of the unintended negative consequences of the deployment of typologies, especially the misuse of information from the assessment and dangers of incorrect categorization.”<sup>3</sup>

intimate partner homicide.”<sup>7</sup> In nearly one-third of the cases in which American women are murdered by their intimate partner, the intimate partner commits suicide.<sup>8</sup>

Mental illness is not an excuse for—and may be rarely a cause of—domestic violence, and abusers must be held accountable. But when an abuser threatens to kill not only the victim but also the

## **A. Introduction**

Domestic violence cases are different because there are strong emotional ties between the victim and the abuser. They are in an intimate relationship, may share property together, be financially dependent on each other, and may have children in common. The victim may be seeking legal sanctions for reasons other than desiring punishment. Victims of domestic violence may only seek to stop









definitions of “victims” as those classifications pertain to domestic violence.

### 3. Who Are the Abusers and the Victims?

The short answer is that anyone may be either an abuser or a victim. Men and women of varying age, economic status, sexual orientation,

gender, race, religion, or nationality can be victims of violence. Domestic violence victims must navigate many systems in their search for safety. Their unfortunate experiences in abusive households may lead them to seek remedies in family law, juvenile dependency, emergency protective order, and criminal courts. Thus, understanding domestic violence

Our understanding of the causes of domestic violence has transitioned and evolved since the last century. Contemporary studies and research also suggest the males-as-aggressors stereotype may be less true and that the sexes may be closer to symmetrical in terms of domestic violence than we previously realized.<sup>12</sup>

Domestic violence can happen to intimate and formerly intimate partners who are married, living together, dating, divorced, formerly dating, those who formerly lived together, and two persons who have produced a child together. To improve access for the public and promote effective judicial governance, it is important to be cognizant of both opposite-sex and same-sex relationships. Legislation and legal interpretation of legislation relative to domestic violence often assumed a heterosexual relationship. Even classifications between heterosexual and same-sex relationships lack a full treatment and contemplation of the relationships impacted by domestic violence. If our goal has been to protect all of humanity, our legal remedies for domestic violence have frequently fallen short.

Our court system must also be prepared to address the LGBTQ (Lesbian, Gay, Bisexual, Trans, and Questioning) community and members of the community whose gender identities and sociology are less shared and understood by majority groups. An understanding of intersex and asexual individuals should also be included. Relatedly, a court's use of terminology and classification relative to such can both instill trust and confidence when used correctly and create skepticism and mistrust when used incorrectly. Some terms are considered inclusive and legitimate, albeit evolving. Other labels may be interpreted as outdated and stigmatizing. As a general issue, there is no reason to believe this segment of the community is not

just as affected by domestic violence as other segments of the population.<sup>13</sup>

For further information on this section:

What Is Domestic Violence? The National Domestic Violence Hotline  
<http://www.thehotline.org/is-this-abuse/abuse-defined/>  
<https://www.theduluthmodel.org/>

## B. Behaviors of Abusers

### 1. Out of Court – What Do They Do to Maintain Control?

Chosen and learned behaviors are thoroughly illustrated in the Duluth Model's Power and Control Wheel discussed earlier. The following list details some of the behaviors demonstrated by abusers in their everyday lives.

- charming in public but abusive at home, i.e., "Jekyll-Hyde" personality
- intimidating
- consistent, persistent attempts to control the victim
- self-centered and narcissistic
- claims to be the "real" victim
- minimizes and denies own behavior and instead blames the victim, circumstances, or others
- dependent on the victim
- exhibits jealousy and possessiveness under the guise of "stare"

Another tactic—"gaslighting"—can make a victim

the topic of domestic violence. The list below concentrates on ten reasons victims stay in today's culture and societal environ

**6. Lack of education**

## **10. LGBTQ victims**

The same fears experienced by other victims of domestic violence exist for the LGBTQ victim and prevent them from leaving the relationship. Additionally, the LGBTQ domestic violence victim has the following with which to con

- Agree to what outsiders see as unsafe provisions for child custody or parenting time
- Avow love for the abuser
- Display agitation or a raised voice with others in the courtroom, including the judge
- Display anxiety about rulings by questioning decisions made by the judge
- Display combative intensity during proceedings
- Flee the jurisdiction, along

“Immigration Options for Victims of Crimes.”  
U.S. Department of Homeland Security.  
<https://www.dhs.gov/immigration-options-victims-crimes>

“LGBTQ Relationship Violence.” National  
Domestic Violence Hotline.  
<http://www.thehotline.org/is-this-abuse/lgbt-abuse/>

T.K. Logan et al. “The Kentucky Civil Protective  
Order Study: A Rural and Urban Multiple Per-  
spective Study of Protective Order Violation Con-  
sequences, Responses, and Costs.” Institute for  
Social Research, University of Michigan. 2009.

## D. Lethality Issues

### 1. Lethality Factors

National research supports that certain behav-  
iors of the domestic violence abuser can be con-  
sidered “lethality factors”; that is, the presence  
of these factors in a relationship increases the  
likelihood that the victim and others (the chil-  
dren, the batterer, and often bystanders) will  
end up dead. Lethality factors that multiply  
the odds of homicide five times or more over  
nonfatal abuse have been found to include:

- a) threats to kill (14.9 times more likely)
- b) prior attempts to strangle (9.9 times more likely)
- c) forced sex (7.6 times more likely)
- d) escalating physical violence, severity over ver-

http://www.dhs.gov/immigration-options-victims-crimes  
http://www.thehotline.org/is-this-abuse/lgbt-abuse/  
T.K. Logan et al. “The Kentucky Civil Protective Order Study: A Rural and Urban Multiple Perspective Study of Protective Order Violation Consequences, Responses, and Costs.” Institute for Social Research, University of Michigan. 2009.





## 2. Stalking and Electronic Harrassment Information

Stalking is often assumed to be the behavior of some creepy made-for-TV movie stranger who fixates on a pretty girl he dated once. But in real life, many DV abusers stalk their intimate partners, both during the relationship and after the victim has left the relationship. With the advent of so much readily accessible technology, stalking someone electronically is easier than ever before. The National Stalking Resource Center provides these statistics:

- 7.5 million people are stalked in one year in the United States.
- More than 85% of stalking victims are stalked by someone they know.
- 61% of female victims and 44% of male victims of stalking are stalked by a current or former intimate partner.
- 25% of female victims and 32% of male victims of stalking are stalked by an acquaintance.
- About 1 in 5 of stalking victims are stalked by a stranger.
- 11% of stalking victims have been stalked for 5 years or more.
- 46% of stalking victims experience at least one unwanted contact per week.

The Center lists behaviors that constitute stalking:

- Following the victim and appearing wherever the victim is.
- Sending unwanted gifts, letters, cards, or e-mails.
- Damaging the victim's home, car, or other property.
- Monitoring the victim's phone calls or computer use.

- Using technology, like hidden cameras or global positioning systems (GPS), to track where the victim goes.
- Driving by or hanging out near the victim's home, school, or work.
- Researching the victim by using public records or online search services, hiring investigators, going through the victim's garbage, or contacting friends, family, neighbors, or co-workers.

There is a strong connection between stalking and intimate-partner violence. Stalking behavior typically starts after the relationship has ended. The most dangerous time for a victim of stalking is 1) at the time of separation, when a victim leaves the relationship; 2) when a protective order is served or there has been a criminal arrest; 3) when there have been multiple incidents within a short period of time with an escalation in behaviors.

Abusers often exploit technology to create an advantage for themselves. Most of the technologies used by stalkers have legitimate legal functions. Stalking behaviors used may include: sending the victim unwanted emails, instant messages, or messages through social media websites; ma

ns clude: a  
webs. a ts  
m sta



## 1. Leadership

Effective domestic violence initiatives require leadership from within the court system. An effective leadership model is a domestic violence coordinating council that includes all major players. Councils may establish policies and procedures, coordinate efforts, and work through problems. Such councils can function at local, regional and statewide levels.

Key council members to consider include:

- Chief judge
- Chief prosecutor
- Court administrator
- Public defender
- Law enforcement representative
- Chief probation officer
- Domestic violence statewide committee representative
- Child protective services representative
- He911 or doctive servicescesat

just intervention to these crimes cannot be achieved with a one-dimensional, "one-size-fits-all" response.

An effective interagency response (CCR mode



Most intervention programs use models based on research on heterosexual intimate partner violence. There are a









- Give litigants a voice by asking open-ended questions that give them an opportunity to tell their side of the story. Also, provide a forum so litigants can give the court feedback about their experiences.
- Demonstrate neutrality at all times. Avoid showing a preference to certain parties (prosecutors versus defense attorneys), and do not make jokes or comments that could be misinterpreted by the litigants.
- Promote helpfulness by partnering with local victim advocates or social service providers. Ensure that court staff are

knowledgeable about available resources and are able to make referrals.<sup>24</sup>

For further information on this section:

Domestic Violence Courts, Center for Court Innovation.

<http://www.courtinnovation.org/project/domestic-violence-courts>

Community Sy c

url:7mtf06j1:l:0ms"7Jj11p:l

. u

a aton



## B. Priority

Courts should hear protective order petitions as quickly as possible, even if other scheduled matters must be interrupted. Requests for protective orders can be interspersed with short proceedings. Ideally, courts should set aside one courtroom or division to hear protective order petitions.

## C. Security

At all stages of protective order proceedings, judicial officers and court personnel should maintain appropriate security for the parties and themselves. If the safety of the parties or any witnesses is a concern, a judicial officer may request a law enforcement officer's presence in the courtroom during a contested hearing or for escorting a party from the courthouse. The court may find it prudent to direct the defendant to remain in the courtroom for a short time after the plaintiff is excused so the plaintiff can safely exit the building. Additionally, wherever possible, courts should allocate space to provide separate waiting areas for the parties.

## D. Mediation<sup>26</sup>

Mediation is a process by which the parties to a dispute voluntarily resolve their differences with the assistance of a neutral third party. The mediator does not impose a decision on the parties, but rather facilitates their own resolution of the dispute.









## V. SPECIALIZED DV COURTS

---

A good domestic violence court provides comprehensive judicial monitoring of offenders and offers access to services for victims. Domestic violence courts may address civil protective order cases, criminal cases, or a combination of both.

Specialized domestic violence courts come in many different models. This allows jurisdictions to address the issue within the confines of their resources and caseloads.

Various models include:

**Dedicated Civil Protection Order Courts**—have a docket dedicated to the issuance and enforcement of domestic violence civil protective orders. While the judge may hear other types of cases, the protection order caseload is maintained separately.

**Criminal Domestic Violence Courts**—devote a dedicated docket and one or more specially trained judges to hearing domestic violence cases. Some courts hear only misdemeanor cases, some only felony cases, while some hear all domestic violence cases.

Additionally, some domestic violence courts also carry related caseloads. For example:

**Unified Family Court Dockets**—handle any civil cases involving the same family, where there are domestic violence issues.

**Coordinated Courts**—handle both the criminal domestic violence cases and any related civil matters within the same court division but with different judges.

**Integrated Domestic Violence Courts**—are based on the one-family, one-judge concept, and they handle both criminal domestic violence cases and related civil matters, such as

family law or juvenile law cases.

The keys to a successful domestic violence court, whatever the model, lie in the following elements:

*A single judge presides over cases from post-arraignment through sentencing and compliance. This practice improves decision-making and ensures consistent and efficient case handling.*

*Intensive judicial supervision of these cases enables the court to hold offenders accountable by promoting compliance with orders of protection and other court mandates, such as program attendance, and to respond swiftly to violations.*

*A resource coordinator collects and prepares offender and victim information for the judge, holds agencies accountable for accurate and prompt reporting, and is the court's primary liaison with the community.*

*The on-site victim advocate serves as primary linkage to services; NCP; 2017 j*



The coordinated community response is crucial to ensure that the judge has the information necessary to make safe release and sentencing conditions in criminal cases and write enforce

In the United States, the tools for stopping domestic violence include not only protective orders and criminal prosecution but also sentencing or referrals to domestic violence offender treatment programs. Many of these programs also are called Batterer Intervention Programs (BIPs). Offenders are directed into these programs as part of criminal sentences or through civil protective orders. The goals of domestic violence offender treatment include holding the offender accountable, reducing recidivism, rehabilitating the offender, and keeping the victim safe.

More than 40 states have developed standards for domestic violence offender treatment programs. In some states, providers must adhere to the standards; in others, adherence to the standards is voluntary. The standards may be developed by state attorneys general or state public health, corrections, probation, or human services departments. In others, domestic violence coalitions have developed the standards. In states with mandatory standards, there may be statutorily created counsels or boards to oversee or certify providers.

The majority of programs are based on the Duluth Model, a 26-week program that focuses on power and control and the behaviors identified in the Power and Control Wheel. These types of programs, designed primarily for men, use a psycho-educational curriculum or a cognitive behavioral model that teach skills and personal coping strategies.

Colorado has adopted risk-based standards, with the program provider determining the length of time an offender must participate, based on a risk assessment. Part of Colorado's standards require periodic assessment of the standards and programming to determine their effectiveness. Iowa

has adopted an intervention program based on acceptance and commitment theory. The Iowa Domestic Abuse Program (IDAP) is "a group educational program that offers the opportunity for change with 24 classes required to be completed in 28 weeks."

- Adopt new ways of communicating with their partner and their children.
- Learn to respect the opinions and wishes of all family members.
- Understand the effects of their abuse on their partner and their children.

• Identify "I" statements