

# Practical Implications of Current Domestic Violence Research for Probation Officers and Administrators

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# Practical Implications of Current Domestic Violence Research for Probation Officers and Administrators

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This booklet looks at the recent research on intimate partner violence and analyzes what it reveals that probation officers and administrators should know to do their jobs better in terms of completing PSI for defendants convicted of intimate partner violence, supervising abusers on their caseloads, and dealing with the victims of these abusers on probation and victims who have also ended up on probation caseloads. Although much of the research is not focused directly on probation, what it tells us about abusers, victims and the responses of law enforcement, prosecutors, and courts directly bears on probation. Other research reviewed looked specifically at probation's response to IPV.

Although the title of this booklet refers to "domestic violence (DV)," this term has come to mean different things over the past few decades. In the following text, we are focusing specifically on "intimate partner violence (IPV)," that is physical assaults, terroristic threats, stalking, sexual abuse and other criminal abuse by current and former spouses, boy/girl-friends, and dating couples, not intra-family violence (other than marital), child abuse, or abuse among members of the same household. However, some of the research reviewed lumped DV and IPV together or failed to define whether the study included non-intimates. For this reason, we use the term "DV" when the study was clearly not limited to IPV only or when the precise relationships included were not defined. It should be noted, for example, that many of the criminal justice related studies define DV consistent with state statutes and state statutes vary in terms of relationships and criminal behaviors covered.

Notwithstanding this, despite the broader focus of DV than just IPV, most of the subjects in DV studies are, in fact, intimate partners so the "DV" research substantially overlaps with what we are specifically interested in and helps inform our specific area of interest.

## I. What the research has to tell probation officers and administrators about probationers convicted of IPV or defendants awaiting sentencing reports

### 1. Are these real criminals or a specific subset of persons with relationship or other non-criminogenic problems?

Most studies agree that the vast majority of male IPV perpetrators that come to the attention of criminal justice or court authorities, much less end up on probation, have a prior criminal history for a variety of nonviolent and violent offenses against males as well as females of a domestic and non-domestic nature.

For example, 2012 statewide study across the state of Washington examined all 66,759 individuals with DV cases filed from 2004 through 2006. While 29% had at least one prior DV offense, 67% had committed at least one prior non-DV offense. The average criminal career of these abusers at the time of their study arrest for DV was four years. [73a]. Another study of DV defendants brought to court in Toledo, Ohio not only found that most had a prior arrest history but the average number of prior arrests was 14 for DV as well as non-DV crimes [222]. Similarly, 84.4% of men arrested for DV in Massachusetts had prior criminal records, averaging a little more than 13 prior charges (resulting from five to six arrests) — including four for property offenses, three for offenses against persons, three for major motor vehicle offenses, two for alcohol/drug offenses, one for public order violations, and 0.14 for sex offenses. [26] A study of the Cook County (Chicago) misdemeanor DV court found that 57% of the men charged with misdemeanor DV had prior records for drug offenses, 52.3% for theft, 68.2% for public order offenses, and 61.2% for property crimes. On average, they had 13 prior arrests. [105]

#### Implications for Probation

*Given the large overlap between IPV and general criminality, probation officers should consider this caseload as serious as any other on probation, more so than those that do not pose such an explicit threat to their victims, past, current and future. In preparing PSIs, officers should check civil protective order files in addition to criminal files and consider them as equivalent risk markers.*

A most recent study of a thousand persons on probation for DV charges across the state of Rhode Island found that they averaged seven different sets of criminal charges brought to court. For the majority (53%), the span of these sets of charges lasted at least eight years, but for at least 44%, the span was ten years from first to last set of court charges. Fewer than a quarter, 23.8%, of these abusers on probation had only DV charges on their records. Further, those with only DV charges on their record were disproportionately the few females on probation for DV. (See the next section for the research on this special subset of abuser probationers.)

Studies of abusers brought to court for protective orders find similarly high rates of criminal histories, ranging from slightly more than 70% in Texas [29] to 80% in Massachusetts. [133]

## 2. Is women's use of IPV different from men's?

Women who engage in violence or use force against their intimate partners are in most aspects very similar to women who are victims of IPV. [211] In fact, the overlap between the two groups has been found to be substantial, with overlap rates ranging from 64% [203] to more than 90%. [206, 210] For this reason, it is not surprising that studies of women who use force against male partners reveal different motivations than those of men who perpetrate IPV against female partners. [5, 10, 41, 42, 192, 210, 208]

An exploratory, multi-site study of male abusers participating in batterer intervention programs (BIPs) documented the use of force by the female partners against men enrolled in the BIPs. The findings suggest that self-defense (66%) or fear (33%) were the primary reasons that females used force or violence against male partners in the BIPs. The context of the force used by women partners indicated that they were the "primary victims." Women using violence used less severe tactics than enrolled men. The men against whom they used violence were likely to be among the most abusive of the men in the BIPs, more likely to "have antisocial tendencies, be verbally abusive, threaten the women, be repeatedly violent, and cause physical injury during the (15 month) follow-up." The use of physical tactics by women partners decreased as the men reduced their violence. Women who used force against their male partners were more likely to seek public welfare and services from shelters. [84]

At least two dozen studies have found that self-defense and retaliation are the most cited motivations for women assailants. [41, 42, 210, 211] The two motivations may also overlap. [97, 224] Anger has also been found to be a primary or secondary motive of women. A lesser number of studies find "desiring attention" as a motivator for women, suggesting that women use violence as a "last resort" to get their partners' attention. While some inquiries also find "coercive control" to be a motivator for a minority of women using force against their male partners, [96] none have found it to be a primary motivator, unlike studies of males perpetrating IPV. [198]

Other studies also find women may use violence in an attempt to extricate themselves from abuse or to prevent the recurrence of violence by abusers. [25] A study of battered women with disabilities found they may recognize that their abusive partners are on the cusp of inflicting violence, and use violence as a preemptive strike to avert the assaults of abusers, a harm reduction strategy or an attempt to gain control over the situation. [97]

A recent study, attempting to create an instrument to measure women's use of force or violence against their intimate partners, did not succeed in constructing a valid measure of women's aggression, but concluded that "the power and control model of IPV may well apply to women's victimization, but not as well as to their perpetration of violence." [209]

Most significantly, research suggests the use of advocacy services and community resources by women who use violence against intimate partners reduces the likelihood of them continuing violence against their male partners. Fortunately, women who engage in violence against their partners in self-defense are more likely to seek assistance and services, realizing that violence does not stop their victimization. [25]

### Implications for Probation

*Faced with female abusers, Officers must explore the context of the abuse to determine if advocacy services and referral to appropriate community resources as well as safety planning is the effective approach to take. A large number of female abusers on probation may reflect inappropriate police and prosecution practices.*

### 3. Are IPV abusers likely to be drug and/or alcohol abusers?

As with criminality in general, there is a high correlation between alcohol and substance abuse and IPV for abusers. Incident studies find up to 92% of IPV assailants used drugs or alcohol on the day of the assault, and nearly half were described by families as daily substance abusers for the prior month. [24] Other studies have also found less, but substantial incidence of substance use. A California arrest study found alcohol or drugs, or both, were involved in 38% of the IPV incident arrests. [231] A large Seattle arrest and protective order study found that alcohol/drug use was reported in 24.1% of incidents involving police. [117, 118]; 45% of suspects in North Carolina were identified as being intoxicated. [72]

A domestic violence fatality review study in New Mexico documented that alcohol and drugs were present in 65% of 46 domestic violence homicides between 1993 and 1996: 43% abused alcohol and 22% abused drugs. [168] Two surveys, one of state correctional facilities in 1991 and the other of jails in 1995, found more than half of those jailed or imprisoned for DV admitted drinking and/or using drugs at the time of the incident. [92] Among defendants prosecuted in Chicago's DV misdemeanor court, 60.7% were found to have "ever had an alcohol or drug problem." [105]

Interviews with more than 400 North Carolina female victims who called police for misdemeanor domestic assaults found that abuser drunkenness was the most consistent predictor of a call to police. According to the victims, almost a quarter (23%) of the abusers "very often" or "almost always" got drunk when they drank, more than half (55%) were binge drinkers, 29.3% used cocaine at least once a month, and more than a third (39%) smoked marijuana. Furthermore, almost two-thirds of abusers were drinking at the scene of the incident, having consumed an average of almost seven drinks, resulting in more than half of them (58%) being drunk. [126] The National Crime Victims Survey found substantial, but lesser rates of substance abuse. Between 1993 and 2004, victims reported that 43% of all nonfatal intimate partner violence involved the presence of alcohol or drugs, another 7% involved both alcohol and drugs, and 6% involved drugs alone. [31]

Both a batterer and an alcohol treatment study similarly reveal a consistent, high correlation between alcohol abuse and domestic violence. In one study, for example, for 272 males entering treatment for battering or alcoholism, the odds of any male-to-female aggression were 8 to 11 times higher on days they drank than on days they did not. [61]

Correlation is not causation. Most drug and alcohol abusers are not court involved for IPV.

### Implications for Probation

*The presence of drug and/or alcohol abuse makes continued offending more likely. Although sobriety may not eliminate the risk for reabuse, research suggests it may be an essential ingredient. Enforcing abstinence from alcohol and drugs is generally appropriate for persons convicted of IPV.*

#### 4. Are IPV abusers more likely to be mentally ill or have certain personality traits?

Batterers are no more likely to be mentally ill than the general population. [89] Although various researchers have attempted to classify abusers — ranging from agitated “pit bulls” and silent

### Implications for Probation

*Battering does not appear to be a mental aberration and is not responsive to mental health counseling. Although batterers may suffer from depression or low self-esteem after being arrested or restrained, these conditions have not been found to have caused the abuse.*

“cobras” [127] to “dysphoric/borderline” and “generally violent and anti-social” [119], attempts to use these classifications to predict risk of reabuse have proven unhelpful.[110] However, researchers agree that batterers may differ markedly from each other. [34, 120,193] Although some batterers may appear to be emotionally overwrought to responding police officers, other batterers may appear calm and collected. [127] Other research suggests that batterers can be classified as low-, moderate- and high-level

abusers and that, contrary to common belief, batterers remain within these categories. [32] Similarly, in the treatment literature, the multistate study of four batterer intervention programs consistently found that approximately a quarter of court-referred batterers are high-level abusers, unlikely to respond to treatment. These same treatment studies found no common personality type among the batterers referred to batterer programs in three different states. [83, 85, 88]

#### 5. Are military personnel and veterans more likely to engage in IPV than others?

Generally, high IPV rates are found among the military, but this also can be explained by the fact that most active military are younger men and younger men are more likely to engage in IPV than older men or women. However, the research clearly indicates that military personnel and veterans who suffer PTSD or traumatic brain injuries are significantly more likely to engage

in IPV than their peers without these disabilities. While IPV has declined nationally among civilians over the past decade, it has increased among military personnel. IPV calls from people affiliated with the military more than tripled between 2006 and 2011. Soldiers charged with IPV between 2006 and 2009 rose more than 250% at Fort Carson, the huge Army base in Colorado. Overall IPV in the Army rose by 177% between 2003 and 2010. A 2011 study found, for example, among recent male veterans with partners who suffered PTSD, 60% reported IPV within the preceding six months. [74]

### Implications for Probation

*If the abuser is a veteran, probation officers should request information to indicate PTSD or traumatic brain injury (TBI). While the probationer's victim may be as vulnerable as any IPV victim, probation's response should address PTSD/TBI, including referrals to a VA facility that provides PTSD treatment.*

## 6. Do IPV abusers stick with one victim?

Deprived of their victim, many abusers will go on to abuse another intimate partner or family member. Others may abuse multiple intimate partners and family members simultaneously. [38] A Rhode Island probation study, for example, found that in a one-year period, more than a quarter (28%) of those probationers who were rearrested for a new crime of domestic violence abused a different partner or family member. [139] The Massachusetts study of persons arrested for violating a civil restraining order found that almost half (43%) had two or more victims over six years. [22] This confirms an earlier state study finding that 25% of individuals who had protective orders taken out against them in 1992 had up to eight new orders taken out against them by as many victims over the subsequent six years. [2] Studies have generally found that abusers who go on to abuse new partners are not substantially different from those who reabuse the same partner, with the exception that they tend to be younger and are not married to their partners. [2,139]

### Implications for Probation

*If the abuser is no longer with the victim of his offense that brought him to court, officers must be wary that the next intimate/dating partner is at risk for abuse. Probationers must be required to reveal current relationships and inform new partners why they are on probation, to be confirmed by the Officer to ensure compliance and alert new partners to accept no excuses if the probationer abuses them too.*

## 7. How many IPV abusers are likely to do it again?

Depending on how reabuse is measured, over what period of time, and what countermeasures either the victim (e.g., getting a protective order or going into hiding) or the criminal justice system takes (locking up the abuser), a hard core of approximately one-third of abusers will reabuse in the short run, and more will reabuse in the long run.

## Implications for Probation

*PSI's should recommend sentences and probationary conditions that maximize protection of current and/or future victims. Officers cannot consider a repeat abuser as a "first" offender just because several years may have passed between IPV abuse offenses. Officers should contact victims and monitor civil courts for protective orders against probationers and bring probationers before the court if they have evidence of new abuse, whether or not there is a new IPV arrest.*

A Massachusetts study tracked 350 male abusers arrested for abusing their female intimate partners over a decade, 1995 to 2005. The study found that while the majority was not arrested for new IPV within a year of the study IPV arrest, ultimately 60 % were rearrested for a new IPV assault or had a protective order taken out against them, even though some went three to four years between arrests. [136, 227] An equivalently high rearrest rate for IPV was also documented in Colorado between 1994 and 2005. During that time, of 84,431 defendants arrested for IPV, more than 50,000 (nearly 60%) were re-arrested for additional IPV charges at least once. [125]

Studies with shorter term follow up document high, but lesser reabuse rates. In Rhode Island, 38.4% of abusers were arrested for a new IPV offense within two years of being placed on probation supervision for a misdemeanor IPV offense. [139] A half-dozen batterer program studies published between 1988 and 2001 and conducted across the United States documented reabuse, as reported by victims, ranging from 26 to 41% within five to 30 months. [3, 51, 56, 83, 85, 88, 89, 98] Five studies published between 1985 and 1999 of court-restrained abusers in multiple states found reabuse rates, as measured by arrest and victim reports for the period of four months to two years after their last abuse offense, to range from 24 to 60%. [3, 29, 103, 131, 133]

Where studies have found substantially lower rearrest rates for abuse, it appears the lower rate is a result of police behavior, not abuser behavior. In these jurisdictions, victims report equivalent reabuse, notwithstanding low rearrest rates. For example, studies of more than 1,000 female victims in Florida, New York City and Los Angeles found that, whereas only 4 to 6% of their abusers were arrested for reabuse within one year, 31% of the victims reported being physically abused during the following year (one-half of those reporting being burned, strangled, beaten up or seriously injured) and 16% reported being stalked or threatened. [61,190] Similarly, in a Bronx domestic court study, whereas only 14 to 15% of defendants convicted of domestic violence misdemeanors or violations were rearrested after one year, victims reported reabuse rates of 48% during that year. [183]

## 8. Are abusers at risk for committing new nondomestic violence crimes?

Not surprisingly, given their extensive prior criminal histories for both IPV and non-IPV offenses, abusers typically do not confine their reoffending to IPV alone.

The Massachusetts longitudinal study found that while 51% of the Massachusetts abuser arrestees were rearrested for new IPV over 10 years, more, 57%, were rearrested for non-IPV crimes, including 15% who were also arrested for IPV crimes. [136] Two New York City studies, one in the Bronx Misdemeanor Domestic Violence Court and the other in the Brooklyn Felony

Domestic Violence Court, found that 58% of those arrested for DV were rearrested for any crime within 30 months of the study arrest in the former study [163], and 44% within two years of arrest in the latter. [181] Most of the new arrests (according to official complaints) were for non-DV-related crimes such as drug possession/sale or property offenses.

Among Cook County DV misdemeanants, 26.1% were arrested within 2.4 years on average for new domestic violence, whereas 46.5% were arrested for any offense.

[15] The National Youth Survey found that most men (76 %) who engage in domestic violence report also engaging in one or more deviant acts concurrently, including illegal behavior such as stealing or illicit drug use. [164] Nor is it surprising that abusers' violence was not limited to their households. In Cook County (Chicago), the majority of prosecuted misdemeanor domestic violence offenders (55.6%) were found to have been violent with others as well as their partners. [105]

### Implications for Probation

*All re-offenses should be taken seriously, IPV or non-DVP.*

## 9. When are abusers likely to reabuse?

Studies agree that for those abusers who reoffend, a majority do so relatively quickly. In states where no-contact orders are automatically imposed after an arrest for DV, rearrests for order violations begin to occur immediately upon the defendant's release from the police station or court. For example, in both a Massachusetts misdemeanor arrest study and a Brooklyn, N.Y., felony arrest study, the majority of defendants rearrested for new abuse were arrested while their initial abuse cases were still pending in court. [26, 163] The latter included a 16% arrest rate for violation of no-contact orders and a 14% arrest rate for a new felony offense. [164] Similarly, a little more than one-third of the DV probationers in Rhode Island who were rearrested for DV were rearrested within two months of being placed under probation supervision. More than half (60%) were arrested within six months. [139] A multistate study of abusers referred to batterer programs found that almost half of the men (44%) who reassaulted their partners did so within three months of batterer program intake, and two-thirds within six months. The men who reassaulted within the first three months were more likely to repeatedly reassault their partners than the men who committed the first reassault after the first three months. [81, 82, 83] In the Bronx, similarly, reoffending happened early among those convicted for misdemeanor or domestic violence violations. Of those rearrested for domestic violence, approximately two-thirds reoffended within the first six months. [183]

### Implications for Probation

*Given that those abusers most likely to reabuse are also likely to do so sooner rather than later, initial supervision should be as intensive as resources permit and only eased as the probationer's behavior warrants reductions.*

## 10. Which abusers are likely to do it again in the short term?

The research consistently validates consistent actuarial factors that reveal abuser risk to the victim without the need for extensive and time-consuming investigations involving multiple sources, including clinical assessments. [109, 110, 111, 186] As a Bronx study on batterer treatment concluded, intensive individual assessments of attitudes or personality are not required to make reasonable judgments regarding abusers' risk of reabuse. [181]

Following are the most important risk factors to consider. Of course, the most powerful predictor of risk of IPV is gender. All of the research concurs that males are more likely to reabuse than females. [181] Younger defendants are more likely to reabuse and recidivate than older defendants. [26, 139, 181, 183, 222, 231] This has been found to be true in studies of arrested abusers and batterers in treatment programs as well as court-restrained abusers. [109, 110, 133, 153, 231] Prior criminal history is also key, including non-IPV related criminal history.

**NOTE:** If the abuser has just **one** prior arrest on his criminal record for **any** crime (not just IPV), he is more likely to reabuse than if he has no prior arrest. [26, 43, 85, 169, 183] A multistate study of more than 3,000 police arrests found that offenders with a prior arrest record for any offense were more than **seven** times more likely to be rearrested than those without prior records. [115] The length of prior record is also predictive of reabuse as well as general recidivism. [162] In looking at all restrained male abusers over two years, Massachusetts research documented that if the restrained abuser had just one prior arrest for any offense on

his criminal record, his reabuse rate of the same victim rose from 15 to 25%; if he had five to six prior arrests, it rose to 50%. [133] In the Rhode Island abuser probation study, abusers with one prior arrest for any crime were almost twice as likely to reabuse within one year, compared to those with no prior arrest (40% vs. 22.6%). If abusers had more than one prior arrest, reabuse increased to 73.3%. [139] Of course, prior civil or criminal records specifically for abuse also increase the likelihood for reabuse. [26, 72, 222, 231]

Related to the correlation between prior arrest history and reabuse, research also finds similar increased risk for reabuse if suspects are on warrants. In a Berkeley, California study, researchers documented that having a pending warrant at the time of a DV incident for a prior non-DV offense was a better predictor of reabuse than a prior DV record alone. [231] Similarly, in a Massachusetts study that addressed this issue, suspects who were gone when police arrived were twice as likely to reabuse as those found on the scene by police. [26] A Chicago study found that

### Implications for Probation

*The absence of a prior IPV arrest is not as powerful a predictor of no reabuse as the absence of a prior arrest for anything. On the other hand, a prior arrest record for any crime is as accurate a predictor of subsequent domestic violence as a prior record for IPV. Officers should understand that if an abuser has a prior record for any crime, he is a high-risk IPV offender, not a low-risk "first" offender. In determining risk, Officers should look at court records of default and warrants, including whether or not the probationer was arrested at the scene of the abuse or subsequently after a police search. Officers should also look at civil protective order files and consider them as equivalent risk factors for reabuse.*

no-show defendants prosecuted by a specialized prosecution team had a significantly greater number of post-arrests than those that showed up in court (0.78 vs. 0.46). [105]

A very large statewide study found that if the suspect before the court for IPV was already on probation for anything else, or if another IPV case was also pending at the time of a subsequent arrest for IPV, that defendant was significantly more likely to be arrested again for IPV within one year than if he was not already on probation or had a pending IPV case. [139]

## 11. Is substance abuse also an important risk factor?

Acute and chronic alcohol and drug use are well-established risk factors for reabuse as well as IPV in general. [116, 223a] Prior arrests for drug and alcohol offenses also correlate with higher rates of reabuse. [78] Just one prior arrest for any alcohol or drug offense (e.g., drunk driving or possession of a controlled substance), for example, doubled the reabuse rate from 20% (no prior drug/alcohol arrest) to 40% (at least one arrest for drugs/alcohol) in a restraining order study over two years. [133]

Defendant alcohol and substance abuse, similarly, are predictive of reabuse and recidivism. [26, 133, 139, 231] The multistate batterer program referral study found heavy drinking to be a significant predictor for reabuse. For the same reason, it found that abuser participation in drug treatment predicted repeated reassaults. [111] Batterers who complete batterer intervention are three times more likely to reabuse if they are found to be intoxicated when tested at three-month intervals. [82, 83, 85, 88] Many [68, 115, 169], but not all, studies [26] have found abuser or victim abuse of drugs or alcohol **at the time of the incident** to be a consistent risk marker for continued abuse.

### Implications for Probation

*Drunk driving or drug possession, crimes that suggest substance abuse by the abuser, should be considered as risk markers for reabuse. Abstinence should be a default condition of probation for those convicted of IPV. Competent batterer programs should similarly require abstinence as a condition of enrollment.*

## 12. Are victims accurate predictors of reabuse?

Victim perception of risk has been found to significantly improve the accuracy of prediction over other risk factors [46], increasing **sensitivity** — the proportion of true positives that are correctly identified by the test — from 55 to 70%. [110] However, the same researchers found that women's perceptions have to be interpreted. Women who felt "very safe" were less likely to be repeatedly reassaulted than those that felt "somewhat safe." Women who were uncertain or felt "somewhat unsafe" were more likely to be reassaulted repeatedly than those who felt they were in "great danger." The reason for this apparent contradiction is that women who felt in greatest danger took effective countermeasures during the study. In other words, the research suggests that if women are not certain they will be safe, they err by giving the benefit of the doubt to their abuser. For these reasons, these researchers concluded that the best predictions of repeated reassaults were obtained by using risk markers, including women's perceptions. [46, 110] The researchers' concern for victims with regard to assessed risk of abuse is borne out by a study of

### Implications for Probation

*Victim input should be an important part of any risk calculation considered by probation. If victims are in doubt as to their safety, officers may, unfortunately, assume the worst.*

more than 1,000 women who sought protective orders or shelter, or whose abusers were arrested in Los Angeles or New York City. Almost a quarter of the victims who thought their risk of reassault was low were, in fact, reassaulted within one year. [187]

Victims' perception of risk also affects their reaction to criminal justice intervention. Those victims who thought police and court intervention did not go far enough were accurate. Those who said police actions were

too weak were three times more likely to experience revictimization, and those victims who said courts failed them were seven times more likely to experience revictimization. [26]

### 13. Are there other common risk factors associated with reabuse?

Several studies have found other consistent risk markers for reabuse, many associated with the variables described above. These include increased risk associated with abusers who flee the scene of domestic violence [26]; abusers who are unemployed [16, 27, 141, 154, 169], economically disadvantaged and living in disadvantaged neighborhoods [153], or living in a household with firearms, abusers who are not the fathers of children in the household [27, 141]; abusers who were exposed to DV as children. [195a]

### Implications for Judges

*Other factors to consider for PSIs or fashioning supervision plans.*

### 14. What factors are not relevant in predicting reabuse?

Generally, the seriousness of the presenting incident does not predict reabuse, whether felony or misdemeanor, including whether there were injuries or not, or what the specific charge is. [26, 43, 133, 139, 145, 169] Abuser personality types have not been found to be associated with increased risk of reabuse. [111] Actuarial data offer improvement over clinical data. [186] Victim characteristics, including relationship with abuser, marital status, and whether the parties are living together or separated, have not been found to predict reabuse. [26] At least one study has found that victim cooperation does not predict recidivism. [145]

### Implications for Probation

*Criteria for charges should not be confused with criteria for determining future risk. Abusers charged with misdemeanors may be as likely to be dangerous as those charged with felonies. Although constrained by statute, probation should seek to minimize offender risk to the maximum extent allowable by law. It is noteworthy that state legislators have provided widely divergent guidance in delineating appropriate IPV sentences. While South Carolina, for example, limits sentences for first offense IPV assaults to 30 days (S.C. Code Ann. § 16-25-20), Massachusetts authorizes sentences up to 2 1/2 years for the same offense (Mass. Gen. Laws ch. 265, § 13A).*

## 15. Which abusers are most likely to try to kill their victims?

Predicting lethality is much more difficult than predicting reabuse and recidivism because, fortunately, it is much rarer. Also, the risk of lethality may increase because of situational circumstances and not because of static abuser characteristics. Nonetheless, researchers have found some key factors that increase the likelihood of homicide or significant injuries.

First and foremost is access to firearms. According to a CDC study, more female intimate partners are killed by firearms than by all other means combined. [172] Firearms in the household increase the odds of lethal versus nonlethal violence by a factor of 6.1 to 1. Women who were previously threatened or assaulted with a firearm or other weapon are 20 times more likely to be murdered by their abuser than are other women. [27, 141] Prior firearm use includes threats to shoot the victim; cleaning, holding, or loading a gun during an argument; threatening to shoot a pet or a person the victim cares about; and firing a gun during an argument. [20, 189]

A significant Massachusetts study of 31 men imprisoned for murdering their female partners (and willing to talk to researchers) found that almost two-thirds of the guns used by men who shot their partners were illegal because the suspect had a prior abuse assault conviction or a protective order was in effect at the time of the killing. [1]

### Implications for Probation

*One of the most crucial steps to prevent lethal violence is to disarm abusers and keep them disarmed. Officers should take all steps possible to enforce firearms prohibitions even if they are not required under state statute or ordered by the court. Note, Probation Officers have an affirmative duty to enforce the law and federal law prohibits court restrained abusers and those convicted of felony or misdemeanor DV from possessing firearms (18 U.S.C. §922(g)(8) &(9)). In short, it is a violation of probation for a convicted or most court restrained abusers to possess firearms. In 2007, in *Weissenburger v. Iowa District Court for Warren County* (No. 47/05-0279, filed October 26, 2007), the Iowa Supreme Court reminded judges they are legally obligated to enforce federal DV firearm prohibitions, notwithstanding contrary (or silent) state statutes. Model probation firearm prohibition programs in Arizona and Nebraska are featured in *Enforcing DV Firearm Prohibitions* ([http://www.bwjp.org/files/bwjp/articles/Enforcing\\_Firearms\\_Prohibitions.pdf](http://www.bwjp.org/files/bwjp/articles/Enforcing_Firearms_Prohibitions.pdf)). As these probation departments have found, they are often able to discover probationers' firearms missed by police and the courts.*

## 16. What are other lethality risk markers?

In a national study, other lethality markers 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; (c) forced sex, 7.6 times; (d) escalating physical violence severity over time, 5.2 times; and (e) partner control over the victim's daily activities, 5.1 times more likely. [27, 141] Research has also found that male abusers are more likely to kill if they are not the fathers of the children in the household. [20, 27, 141] A Chicago study similarly found that death was more likely if the abuser threatened his partner with or used a knife or gun,

### Implications for Probation

*Probation officers should alert victims if their probationers are high risk for lethality increased risk for lethality. Further they should provide intensive monitoring of these probationers.*

strangled his partner or grabbed her around her neck, or both partners were drunk. [20] A series of interviews with 31 men imprisoned in Massachusetts for partner murders revealed how quickly abusers turned lethal. Relationships with short courtships were much more likely to end in murder or attempted murder; these relationships were also likelier to end much sooner than those with longer term courtships. Half of the murderers had relationships of no more than three months with the partners they murdered, and almost a third had been involved for only one month. [1]

In terms of female murders of male partners, the research suggests that abused women who kill their partners have experienced more severe and increasing violence over the prior year. They tended to have fewer resources, such as employment or high school education, and were in long-term relationships with their partners at the time. [20]

## II. What the research has to tell probation about IPV victims?

### 1. What is the impact of IPV abuse on victims?

Obviously, the impact of IPV varies depending upon the resiliency of victims, their resources and support they receive from others as well as the frequency and severity of the abuse the victims are subject to [104]. For these reasons, abusers prey disproportionately on some of the most vulnerable among us, including poorer women [33], minorities [33,30], pregnant women [170], women with disabilities [182] or deaf [4], women who abuse alcohol or drugs [23, 39, 143, 195, 214], and women in rural areas [173, 184, 226]. Other especially vulnerable victims appear to be LGBT populations [201] and intimate partners of active duty military and veterans. [28, 122] Reflecting the different nature of abuse visited on male and female victims, male IPV victims are five times less likely to report needing medical care than female victims. [18]

Mounting research finds both short and long term adverse impacts. The NISVS reports that only 19.2 % of women victims reported no IPV-related impacts. In contrast, the same survey

### Implications for Probation

*The adverse impacts of IPV are as serious as those of any other crime probationers are likely to commit over their criminal careers. These adverse impacts may also explain victim behavior that appears on its surface to be inexplicable, including inability or refusal to testify in court or seeming lack of cooperation with law enforcement and probation. Probation officers should be versed in available community DV services for victims and refer victims as appropriate.*

found that 22.3 % of IPV victimized women and 4.7 % of victimized men reported PTSD symptoms over their lifetime. [19] And a significant correlate of PTSD is that many sufferers self-medicate resulting in alcohol and substance use disorders, [37, 112, 149] including binge drinking. [233]

Alarming, the fact that the United States ranks only 27 out of 33 of the most developed countries if life expectancy at birth can be attributed to high infant mortality associated with pre-term birth and low birth rate, both associated with maternal IPV victimization [21] Adverse impacts include more health problems that result in more visits to health care providers and more and longer hospital stays [12, 18]. In fact, the stress of IPV victimization can actually result in cellular changes that adversely impact long term health [124, 207]. Mental distress is also common among IPV victims including depression, anxiety, hopelessness, distrust and anger [69, 77, 140, 185, 191]. When an individual experiences an intensely traumatic event, the way they process future challenges can be forever compromised. Battered women have been found to develop the same cognitive bias as military combatants, leading to lower levels of coping self-efficacy and elevated symptoms of both depression and post-traumatic stress. [146]

In fact, many more victims may die as a result of suicide than are murdered by their partners [178, 199]. Studies have found that the high incidence of PTSD suffered by victims may last 6 to 9 years after the victim has been out of the violent relationship [860]. Research also link IPV with abortions [59] and higher risk for HIV infection [47], as well as financial deprivation [179, 218] and homelessness [132, 190, 197, 220, 221]. Among socially disadvantaged victims, IPV has also been linked both to depression and food insecurity. A mother's exposure to IPV predicts increased risk of household food insecurity up to two year later for the children through age five. [114]

## 2. What is the impact on children exposed to parental IPV?

As with the direct victims, the adverse impact of being exposed to parental IPV varies depending upon the resiliency of the child and, crucially, the ability of the non-abusing parent to provide support and positive nurturing [95, 123, 157, 158, 216, 232]. However, mounting research finds both short and long term adverse impacts as a result of exposure to IPV and the research finds that if there is IPV any children in the household are likely to be aware of it. [62] Child exposure may be associated with significantly greater behavioral, emotional, and cognitive functioning among children as well as continuing into adulthood [6, 55, 57, 58, 148, 155, 165, 167, 188]. Child exposure has also been linked to an increased risk of the child developing attention deficit hyperactivity disorder (ADHA). [13]

### Implications for Probation

*Probation should determine if there are children in the household and understand that they too depend on the officer for their safety and well being.*

In fact, recent medical research has found child exposure can result in lifetime adverse physical consequences, resulting from the way the impressionable young brain reacts to the exposure to the violence. Increased activation of the hypothalamic-pituitary-adrenal axis can lead to inflamed airways putting the child at greater risk for asthma, among other things. [11] Even if the child does not show any overt signs of anxiety or depression, their witnessing IPV may have a measurable effect at neural level that may result in later life problems. [159]

Research also finds exposure to IPV may start a chain reaction of antisocial behavior in the next generation. [57, 155, 156] Girls are more likely to become adult victims and boys to become adult perpetrators of IPV. [225]

### 3. Why do some victims oppose prosecution/probation revocations?

Some victims do not want their abusers prosecuted and/or jailed as a result of a probation violation, even if that violation was a new IPV against them. However, research is clear, a majority of victims support IPV prosecutions and sentencing, especially sentences that include mandatory referral to batterer programs. Some want more. In a Chicago misdemeanor court study, approximately two-thirds of victims (67.6%) reported that they wanted their abusers to be prosecuted **and** jailed. [105] A study of four prosecution programs in California, Washington, Oregon and Nebraska, found that three-quarters (76%) of the victims interviewed wanted their abusers arrested, and 55% want them prosecuted. In the same study, most of the victims, 59%, expressed satisfaction with the outcome, and 67% expressed satisfaction with the judge. [196]

#### Implications for Probation

*In preparing for a revocation hearing, officers should work to reassure victims and prepare them if their testimony is required. If the prosecutors have victim/witness advocates, officers should ask prosecutors to assign them to cover revocations. If allowed, victims should be told they can make sentencing recommendations. Victims may want to speak on their abusers' behalf so they won't be blamed if the probation is revoked.*

A Massachusetts arrest study found although only 46.8% of IPV victims wanted their abusers to be prosecuted as charged, but some of those opposed, opposed the prosecution because they wanted more serious charges filed. However, most of the victims (71%) who did not want the case to go to court initially expressed satisfaction after the trial. [26]

Although studies have found multiple reasons for victim opposition to prosecution, fear of the abuser is first and foremost, followed by fear of testifying in court. A study of five jurisdictions in three states found that victims across all sites reported that fear of defendant retaliation was their most common barrier to participation with prosecutors. [101] Even in a Chicago study where the majority of Chicago victims wanted their abusers prosecuted, fear was the biggest factor for those who opposed

prosecution. A quarter of victims opposing prosecution reported being specifically threatened by their abusers against prosecution. Others expressed fear that their abusers would become more violent. In addition to fear, almost half who wanted the prosecution to be dropped thought it wouldn't make any difference. About a third of the victims opposed prosecution because they depended on their abusers for housing. [105]

Interestingly, an Ohio study found that IPV victims were actually more afraid of testifying in court than they were of the defendant or compromising their relationship with the defendant. Specifically, victims expressed fear that the prosecutors would not prepare them adequately to testify. Also indicating their fear also of their abusers, they also reported the concern that the defendant might not be found guilty. [14]

#### 4. Is victim fear of cooperation with prosecutors or probation well founded?

Multiple prosecution and arrest studies broadly concur that abusers who come to the attention of the criminal justice system who reabuse are likely to do so sooner rather than later. In the Massachusetts court study, about 40% of the arrested abusers reabused their victims within one year. Forty-four% did so **before** the study arrest was prosecuted in court. The average case took about six months from arraignment to prosecution. [26] Similarly, in a Cook County study, 30% of the defendants were rearrested within six months of their study arrest, and half of the arrests were for a new domestic violence offense. The average rearrest time was only 29 days after initial arrest. In addition, in almost half of the cases (45.9%), the defendants tried to talk the female victims out of testifying. Moreover, 29.1% of these defendants stalked their victims before the trial, and 8.7% specifically threatened them. [105] An Indianapolis prosecution study found that almost a quarter of the defendants reabused their victims before the pending trial. [71]

In the Brooklyn Specialized Felony Domestic Violence Court — where cases took 6.5 to 7.0 months, on average, to be disposed — 51% of defendants charged with domestic felonies (other than violation of protective orders) were rearrested before disposition; 14% were arrested for a crime of violence; and 16 % were arrested for violation of a protection order. Among those charged with order violations — a felony in New York — the rearrest rate was 47%, including 37% for violating the protective order again. [163] Although these studies do not demonstrate that prosecution causes reabuse, they indicate that pending cases by themselves are not enough to deter recidivist abusers.

#### Implications for Probation

*Since fear of pending cases, including revocation does not appear to deter a large proportion of abusers before the court, Officers should warn victims of pending violation hearings and alert them of increased risk for reabuse, intimidation or pressure from their abusers. To mitigate possible adverse actions, officers should proceed as quickly as possible to conduct revocation hearings and, if appropriate, ask high risk probationers to be held pending resolution.*

### III. What the research has to tell probation about effective court criminal responses to IPV defendants?

#### 1. What should probation officers recommend in terms of sentencing defendants for IPV?

The research is fairly consistent. Sentencing offenders without regard to the specific risk they pose, unlike arresting defendants, does not deter further criminal abuse. [14, 43, 60, 72, 93] The minority of arrested abusers who are low risk are unlikely to reabuse in the short run, whether prosecuted or not. Alternatively, without the imposition of significant sanctions including incarceration, the greater number of arrested abusers who are high risk will reabuse regardless of prosecution — many while the PSI is pending.

#### Implications for Probation

*The punishment should fit the crime. IPV is a serious crime against persons and should be treated consistently more severely than non-IPV crimes that do not involve crimes against persons (within the constraints of state sentencing laws). The research suggests that the length of a IPV sentence may not be as important as how it compares to the same defendant's non-IPV sentences. In fashioning sentencing recommendations, officers should analyze the defendant's non-DV record, too. Recommendations of probationary sentences should be for supervised probation.*

Further, if abusers are consistently treated more leniently for their IPV cases than their non-IPV cases, they are unlikely to be deterred over the long run from committing additional IPV offenses. In other words, if the convicted abuser just completed a prison sentence for a non-IPV crime for drugs or a non-violent offense, a short sentence in the county jail for a subsequent IPV offense will not make much of an impression on the defendant and deter future IPV. Fortunately, the opposite is true. If IPV cases are prosecuted and sentenced more severely than non-IPV cases they also commit, mostly property, drug and status offenses as opposed to crimes against persons, future IPV cases are significantly reduced. These sentencing patterns for IPV compared to non-IPV cases are significant because the majority of IPV abusers brought to court commit both IPV and non-IPV offenses. [134].

Similarly, a Toledo, Ohio, misdemeanor court study found that conviction was significantly associated with reduced rearrests for DV one year following court disposition, even when controlling for batterers' prior history of DV arrests, age, gender, education, employment, and marital status. However, the details of

the specific disposition mattered. The more intrusive sentences — including jail, work release, electronic monitoring and/or probation — significantly reduced rearrest for DV as compared to the less intrusive sentences of fines or suspended sentences without probation. Rearrests were 23.3% for defendants with more intrusive dispositions and 66% for those with less intrusive dispositions! [222]

Another study of 683 defendants in Hamilton County (Cincinnati), Ohio, who were arrested for misdemeanor domestic violence also confirmed that sentence severity was significantly

associated with reduced recidivism, especially for unmarried defendants, although in this study the actual sentence length (number of days in jail) was not found to be significant. [215]

Finally, a Rhode Island study found that a specialized DV supervision program that involved victim contact, tight monitoring of batterer program compliance, and active judicial oversight with specially trained probation officers significantly deterred reabuse compared to those abusers supervised as part of mixed caseloads on regular probation. [139]

## 2. Can “first” IPV offenders be safely diverted or discharged?

In many jurisdictions, a substantial proportion of IPV defendants are diverted or given dispositions without having guilty findings imposed. Often, these dispositions are supposed to be limited to “first” offenders. Notwithstanding these limitations on such diversion programs, a trio of studies has found that a minimum of a quarter of defendants so diverted reabuse or violate the terms of their conditional release.

In a Massachusetts study, a quarter of the arrested defendants were diverted by the court, continued without a finding to be dismissed if they remained arrest free for six months to one year. These diverted cases were reserved for defendants with less serious prior criminal histories for both IPV and other crimes; they were half as likely to have had prior records for IPV or crimes against persons or to have been sentenced to probation previously. These defendants also had begun their criminal careers at an average age of 25, not as teen agers like those abusers who were not diverted. Nonetheless, a quarter of those continued without a finding were arrested or had new protective orders taken out against them within two years of their study arrest. Although this reabuse rate was still half that of defendants with more substantial prior criminal histories, it was substantially higher than prosecutors and judges had anticipated. [138]

In Rhode Island, probationary sentences for domestic violence cases without underlying suspended sentences constitute an in-court diversion much like cases continued without a finding in Massachusetts. (A probationary sentence in Rhode Island does not constitute a conviction under state law and therefore does not count as a sentence enhancement to a former or subsequent conviction. In the study, those sentenced to probationary sentences were most likely to be “first” domestic violence offenders.) Although the average defendant given a suspended or split sentence had 1.1 and 1.9 prior domestic violence arrests, respectively, those provided the in-court diversion had 0.5 prior arrests. Nevertheless, the rearrest rate for the latter was 34.8%, compared to 43.6% for those given suspended sentences and 48.1% given split sentences. [139]

Similarly, a little more than a quarter of the abusers (27.5%) who were given a conditional discharge in Cook County, Illinois violated the conditions. [105]

### Implications for Probation

*Probation officers should not recommend diversion of IPV cases even if abusers have minimal prior criminal histories notwithstanding prior plea deals or promises probation was not a party to. It is not fair to victims and their children given the consistently sizable reabuse rate of such diversion programs.*

### 3. Should probation follow victim preferences when recommending sentences?

#### Implications for Probation

*Although Probation should be open to victims' views, they should explain to victims (and, as important, to defendants) that they are obligated to determine sentences as they deem best, with or without victim agreement.*

Although victim perceptions of the dangerousness of suspects have been found to be good predictors of subsequent revictimization [26, 110, 111], victim preferences on how the case should be disposed are not good predictors. The victims in the Massachusetts study who wanted the charges dropped were as likely to be revictimized (51% vs. 48% after one year) as those who did not want the charges dropped. [26] Similarly, studies in New York found that victim cooperation with prosecutors did not predict recidivism. In other words, when judges imposed

sentences to which victims objected, these victims were no more or less likely to be revictimized than victims who wanted their abusers to be prosecuted and sentenced. [145]

### 4. Do probationary IPV dispositions require enhanced post-disposition resources and court time?

Studies have found that appropriate sentencing of abusers involving probation with relevant conditions (e.g., batterer programs, abstinence, no-contact orders) requires enhanced monitoring because many abuser probationers typically fail to comply. Studies have documented that noncompliance rates prompting formal revocations of probation for abusers ranged from 12% in the Dorchester, Massachusetts DV Court to 27% in Milwaukee misdemeanor DV court. [101] In Cook County's four misdemeanor DV courts, the revocation rate was 27.5%. [105] Higher rates were found in a series of other studies of domestic violence supervision programs across Illinois: 38.5% in Sangamon (Springfield) County, 33% in Peoria, and 22.8% in Tazewell County. The revocation rate was more than 50% in Quincy, Mass. [106, 107, 136] In Brooklyn's felony domestic violence court, the rate was 33%. [163]

Revocation rates may reflect probation resources and policies as much as they reflect probationers' conduct. For example, an evaluation of Rhode Island's specialized domestic violence probation supervision unit found that the unit's probation revocation rate was 44%, whereas the rate for comparable abuse probationers supervised in larger mixed caseloads during the same period was only 24.7%. Almost all of the violations were for noncompliance with the state's mandated batterer intervention program. [139]

#### Implications for Probation

*Probationary dispositions increase the likelihood of technical violations, which require additional judicial time if defendants are to be held accountable and victims protected. Failure to provide adequate time for timely post-disposition hearings will compromise victim safety and offender accountability, undermining the intent of the initial sentence.*

## IV. What the research has to tell Probation about effective supervision of IPV probationers

### 1. Are specialized probation supervision programs a critical component of successful domestic violence courts?

A 2004 study found 160 jurisdictions across the country with specialized domestic violence courts. Among other things, the majority of these courts had the following traits in common: (1) specialized intake and court staffing for domestic violence cases; (2) increased court monitoring; (3) enhanced domestic violence training for judges and probation staffs. [130] Additionally, studies have found that these specialized domestic violence courts can significantly reduce reabuse.

#### Implications for Probation

*Specialized DV Superivision units must reach out to victims and strictly enforce probationary conditions such as batterer programs, bring violators back to court for increased sanctioning.*

A study of Milwaukee's federally funded "model" domestic violence court found that the number of arrests was halved for domestic violence defendants sentenced to probation, compared to those sentenced to generic, non-probation before the DV court reform. The rearrest rate dropped from 8 % to 4.2 %. The average number of new arrests also dropped significantly. Why? After implementation of the specialized domestic violence court, there was a dramatic increase in probation revocations (27% compared to the previous 2%). Most revocations (70%) were for technical violations such as failure to attend batterer intervention programs. [102] Researchers posited that one of the prime explanations for the drop was a corresponding rise in incarceration as a result of probation revocations. As a result of tight judicial monitoring and enforcement of release conditions, the post-reform probationers spent 13,902 days confined, compared to the 1,059 days probationers spent jailed in the days before the DV court reform. In other words, thanks largely to probation, those sentenced by the special domestic violence court had less time on the streets to reabuse and reoffend. [102]

Studies also found reduced reabuse rates at one other federally funded "model" domestic violence court, in Dorchester, Mass., over a period of 11 months, but not in a third model domestic violence court examined in Michigan which had the lowest probation revocation rate of the three model courts. In all three sites, researchers found that the courts were most effective with 18- to 29-year-old defendants, and offenders with seven or more prior arrests whose victims had moderate to high support, did not have children with their abusers, and whose relationship with them was less than three years. Although reabuse declined in two of the courts, overall new arrests for any offense were not statistically different, although they were in the expected direction: 22% for the domestic violence courts, and 28% for the nondomestic violence courts. [101]

Three other studies of specialized domestic violence courts have found small but significant reductions in reoffending [79, 91], including a study of the San Diego superior court, in which rearrests dropped from 21 to 14% in one year. [176] An evaluation of Cook County's four domestic violence courts, on the other hand, found no differences in rearrest rates over six months. [105]

The research also finds that domestic violence courts increase offender compliance by imposing court-ordered conditions and by increasing in the penalties for noncompliance. [102,163] The study of Manhattan's domestic violence misdemeanor court documented enhanced monitoring of offenders after their convictions. [175] Defendants in Milwaukee were required to attend post-disposition court reviews 60 to 90 days after disposition. In 2002, the court conducted 1,347 such reviews, and probation revocations increased dramatically. [102]

### Implications for Probation

*Specialized domestic violence probation supervision programs embedded in domestic violence courts have been found to be associated with beneficial reforms in several areas, including victim safety and satisfaction, offender accountability, and reduced reabuse*

## 2. Does specialized probation supervision of abusers reduce likelihood of reabuse?

### Implications for Probation

*Specialized supervision of abusers that holds abusers strictly accountable and reaches out to victims may significantly reduce reabuse, especially for lower risk abusers.*

A few studies of probation supervision of abusers have been conducted that operated in "regular" criminal courts, not DV specialty courts. A quasi-experimental study across the state of Rhode Island found that those abusers who were supervised in a specialized domestic violence probation program — featuring victim contact, slightly more intensive supervision of abusers (twice a month), intensive monitoring of mandated batterer intervention programs, and probation officers who volunteered to supervise these caseloads — were

significantly less likely to commit new offenses and abuse within one year, but this applied only to those probationers who had not been on probation previously. [135, 139]

The cumulative effect of probation monitoring and counseling completion has been found to significantly lower recidivism. [162] Another researcher has found that enhanced domestic-violence supervision programs have reduced reoffending compared to non-enhanced supervision. [106] Studies have also found that probation supervision increases the number of offenders who complete batterer intervention programs. A multiyear study across Massachusetts found that the batterer program completion rate was 62% for those offenders whose cases were supervised but was only 30% for those whose cases were unsupervised. [22]

### 3. Pretrial Monitoring of Defendants

The research suggests that pre-trial supervision/ monitoring of abusers plays a very critical role, not to be taken lightly just because the defendant has not been convicted of a crime. First, increased restrictions on defendant-victim contact have been found to increase the likelihood of conviction. There is less victim intimidation, harassment or false promises made. [101, 102] Second, as previously indicated, victims are especially vulnerable for reabuse immediately after their abusers have been arrested, notwithstanding pending cases. Third, there may also be an impact on guilty pleas. As a result of enhanced pretrial processing after the establishment of the specialized court, convictions through guilty pleas increased and trials decreased in the Brooklyn (Kings County), N.Y., felony domestic violence court, while the conviction rate remained the same. [163]

#### Implications for Probation

*If assigned to supervise defendants arrested for IPV before trial, probation officers must take that assignment at least as seriously as supervision/ monitoring after a conviction.*

### 4. How important are enhanced probationary conditions for abusers?

The same research that finds specialized DV Courts work, find these courts typically impose substantial more conditions of probation which are rigorously enforced by probation. In Everett, Washington and Klamath Falls, Oregon, for example, defendants were likely to be ordered to attend batterer intervention programs as well as drug counseling and to be ordered to abstain from drugs and submit to testing. Furthermore, the batterer intervention programs often were of increased length and cost utilized by these courts. At these and other sites with specialized DV court programs, defendants were more likely to be ordered to have no contact with their victims. [196]

While the research does not reveal which specific conditions may contribute to reductions in reabuse, based on multiple studies of batterer programs, it is clear that the enforcement of these conditions are key to reabuse reduction. See the following sections on batterer programs. [135, 139]

#### Implications for Probation

*Probation Officers should advocate special conditions for abusers. The strict enforcement of such conditions will ensure that the most dangerous abusers can be identified by their behavior before they reabuse their victims.*

## V. What does the research tell Probation about batterer intervention programs?

### 1. Do batterer intervention programs prevent reabuse?

Commonly, whether diverted, placed on probation or jailed, many IPV offenders are required to attend batterer intervention programs. These programs have increased dramatically over the past several decades. [108] There have been more than 35 evaluations of batterer intervention programs, but they have yielded inconsistent results. Two meta-analyses of the more rigorous

#### Implications for Probation

*Batterer programs, in and of themselves, are not likely to protect the most vulnerable victims from further harm from higher risk abusers. Consequently, if mandated or utilized, batterer intervention programs should be supplemented by other measures to assure victim safety from these abusers.*

studies find the programs have, at best, a “modest” treatment effect, producing a minimal reduction in re-arrests for domestic violence.[8, 66] In one of the meta-analyses, the treatment effect translated to a 5% improvement rate in cessation of reassaults due to the treatment. [8] In the other, it ranged from none to 0.26, roughly representing a reduction in recidivism from 13 to 20%. [66]

On the other hand, a few studies have found that batterer intervention programs make abusers more likely to reabuse [90, 100] or have found no reduction in abuse at all. [40, 45, 65]

The multistate study of four batterer programs concludes that approximately a quarter of batterers appear unresponsive and resistant to batterer intervention. In this long-term study, based on victim and/or abuser interviews and/or police arrests, approximately half of the batterers reassaulted their initial or new partners sometime during the study’s 30-month follow-up. Most of the reassaults occurred within the first six months of program intake. Nearly a quarter of the batterers repeatedly assaulted their partners during the follow-up and accounted for nearly all of the severe assaults and injuries. [83, 85, 88]

### 2. Does the type or length of batterer intervention program make a difference?

Several studies have found that the type of batterer intervention program, whether feminist, psycho-educational, or cognitive-behavioral, does not affect reabuse. [8, 52, 88] One study also found that a “culturally focused” program specifically designed for black male abusers did no better than the program offered to all abusers. In fact, those assigned to a conventional, racially mixed group were half as likely to be arrested for reassaults compared to those assigned to a black culturally focused counseling group or a conventional group of all blacks. [87]

However, a rigorous study based in New York City found the length of the program (26 weeks compared to 8 weeks) may make a difference, with the longer program proving more effective at deterring reabuse. The researchers suggest that the longer program’s increased effectiveness was due to its longer suppression effect while abusers were mandated to attend, whether or not

they actually attended. [45] On the other hand, a multistate study of four programs ranging in length from 3 to 9 months found no difference in subsequent reabuse. [83, 85, 88]

### 3. Do couples counseling or anger management treatment programs prevent reabuse?

There has been little recent research on the application of couples counseling involving batterers and their victims [202] as most batterer treatment standards prohibit couples counseling. [7] While an early study in 1985 found it ineffective, with half of the couples reporting new violence within six weeks of couples counseling [149a], other studies found lower reabuse rates. [52] A small study suggests that couples counseling *after* separate counseling for batterers and victims may be safe and beneficial for couples who want to remain together. [128]

Although anger management is often part of batterer intervention programs based on cognitive psychology, most state batterer treatment standards prohibit generic anger management programs or couples counseling as alternative forms of treatment on their own. [7] In one of the largest studies to date, the Office of the Commissioner of Probation in Massachusetts studied a sample of 945 defendants arraigned for violating a protective order. As part of their subsequent disposition, they were ordered into a certified batterer intervention program, anger management program, and/or a mental health treatment or substance abuse treatment program; 13% were sent to multiple programs. The study found that those referred to 12- to 20-week anger management programs had a higher completion rate than those referred to the much longer 40-week batterer intervention programs. Higher completion rates notwithstanding, there was no difference in rearrest rates for those who completed anger management programs and those who failed to complete one. Furthermore, those who completed anger management programs recidivated at higher rates than those who completed batterer intervention programs, even though those referred to batterer intervention programs had significantly more criminal history, including more past order violations, more long-standing substance abuse histories, and less education than those referred to anger management programs. [22]

#### Implications for Judges

*As long as the batterer intervention program is focused on preventing reabuse, the type of program makes no difference. However, longer batterer programs may be better than shorter programs, like the batterer program mandated for convicted abusers in California (Penal Code §1203.097(A)(6) that must be conducted for two hours each week and for a minimum of 52 consecutive weeks.*

#### Implications for Probation

*Probation should not recommend couple counseling or anger management programs for abusers and if such programs are imposed alert victims that these programs have not been found to be protective for victims.*

An earlier study of a program in Pittsburgh found that abusers who relied on anger management control techniques were more likely to reabuse their partners than those who relied on increased empathy, a redefinition of their manhood, and more cooperative decision making as a means to ending their abuse. [80]

#### 4. Does alcohol and drug treatment prevent reabuse?

##### Implications for Probation

*Incorporating alcohol and/or drug treatment as a standard component of batterer intervention programs adds to the likelihood of reductions in reabuse among batterers.*

*Effective treatment should include abstinence testing to assure sobriety and no drug use. Abusers who cannot maintain sobriety should be ordered into more intensive treatment, including inpatient, or medicated assisted treatment for their own well being and that of their victims.*

The correlation between alcohol and drug treatment has been confirmed in numerous studies cited previously. These studies find substance abuse treatment can be effective in reducing domestic violence. [205] In one such study, for example, researchers found that among 301 alcoholic male partner abusers, of whom 56 % had physically abused their partners the year before treatment, partner violence significantly decreased for half a year after alcohol treatments but still was not as low as the nonalcoholic control group. Among those patients who remained sober, reabuse dropped to 15%, the same as the nonalcoholic control group and half that of treated alcoholics who failed to maintain sobriety. [166] As this study suggests, however, alcohol and drug treatment, in and of itself, may not be sufficient for all abusers. Supporting this is a Massachusetts probation study of 945 defendants convicted of

violating protective orders and subsequently ordered into a program. The study found that those who completed a variety of alcohol and drug treatment programs had higher rates of rearraignment over six years, for any crime or for violations of protective orders, than those who completed batterer intervention programs (57.9 vs. 47.7% for any crime, and 21.1 vs. 17.4% for violation of protective orders). Furthermore, there was no significant difference in rearraignment rates between those who completed the substance abuse treatment and those who did not. [22]

On the other hand, studies suggest alcohol and drug treatment may be a necessary component of successful intervention to prevent reabuse. The multistate study of four batterer programs found that, among those who completed the program, those who became intoxicated within a three-month period were three times more likely to reassault their partners than those who did not. [83, 85, 88]

#### 5. Are court-referred batterers likely to complete batterer programs?

Multiple studies of disparate programs around the country have found high non-completion rates ranging from 25 to 89%, with most at around 50%. [40, 87, 181] Rates vary because different programs have different standards for monitoring attendance as well as different policies regarding re-enrollment, missed meetings, and so on. A study in California found that, of

10 counties examined, only one maintained a database to track offender participation in the mandated batterer intervention program; it reported that 89% did not complete the program. [150]

Not surprisingly, adding on additional treatment programs increases non-completion. For example, although 42% of the referred batterers in the Bronx court study failed to complete the batterer intervention program, that number increased to 67% for those also required to complete drug treatment. For those required to complete drug treatment alone, the non-completion rate was 60%. [181]

High rates of technical violations are common for probationers sentenced for domestic violence, including violations of no-contact orders and drug abstinence, and failure to attend batterer intervention programs. Various probation studies found technical violation (non-crime) rates ranging from 34 % of those sentenced in the Brooklyn felony domestic violence court [163], 41 % in Colorado [125], 61 % in Champaign County, Ill. [107], and 25 to 44 % in Rhode Island (regular vs. specialized domestic violence supervision). [139]

### Implications for Probation

*Probation should take all appropriate steps to ensure that court conditions are enforced, violators are returned to court promptly, and violation cases (i.e., revocation hearings) are heard expeditiously and violators appropriately sanctioned. The lack of immediate proportional sanctions for technical violations sends the wrong message to the specific defendant, all abuser defendants, not to mention victims who are depending upon probation to further their safety.*

## 6. Do those who complete batterer programs do better than those who fail?

Abusers who complete batterer programs are less likely to reabuse than those who fail to attend, are noncompliant, or drop out. [9, 35, 51, 56, 87, 90,181] The differences can be substantial.

A Chicago study of more than 500 court-referred batterers referred to 30 different programs found that recidivism after an average of 2.4 years was 14.3 % for those who completed the program, whereas recidivism for those who did not complete the programs was more than twice that (34.6 %). [15] Those who did not complete their program mandate in the Bronx court study were four times more likely to recidivate than those who completed their program. [181]

The multistate study of four programs found that abusers who completed the programs reduced their risk of reassault in a range of 46 to 66 %. [86] A Florida study found that the odds that abusers who completed the program would be rearrested were half those of a control group not assigned to the program, whereas the odds of rearrest for those who failed to attend were two and one-half times higher than the control group. [64] A Massachusetts study found that, over a six-year period, those who completed a certified batterer intervention program were significantly less likely to be re-arraigned for any type of offense, a violent offense or a protection order violation. (Massachusetts does not have a domestic violence statute, so researchers could not differentiate domestic from nondomestic violence offenses.) The rate differences for these

offenses, between those who completed a program and those who did not, was as follows: 47.7 vs. 83.6 % for any crime, 33.7 vs. 64.2 % for a violent crime, and 17.4 vs. 41.8 % for violation of a protective order. [22] The Dallas study found that twice as many program dropouts as program completers were rearrested within 13 months: 39.7 vs. 17.9 % for any charge, and 8.1 vs. 2.8 % for assault arrests. [54] An Alexandria, Va., study of almost 2,000 domestic violence defendants found that noncompliance with court-ordered treatment was associated significantly with being a repeat offender. [169]

While some studies have found reduced reabuse for abusers who completed treatment programs, a few studies have found less dramatic reductions, for example, in Broward County, where the difference was only 4 vs. 5% [65], and in Brooklyn, where it was 16 vs. 26%. [213]

### Implications for Probation

*Compliance with mandated batterer intervention programs provides probation with a dynamic risk instrument based on a defendant's ongoing current behavior. Reabuse can be prevented if probation responds appropriately and expeditiously to batterers who fail to attend or to comply with court-referred batterer intervention programs.*

## 7. Which batterers are likely to fail to attend mandated batterer intervention treatment?

Researchers generally agree that there are a number of variables associated with failure to complete programs. They include being younger, having less education, having greater criminal histories and violence in their family of origin, being less often employed and less motivated to change, having substance abuse problems, having children, and lacking court sanctions for noncompliance. [17, 48, 49, 65, 86, 94, 98, 177,194] A number of studies emphasize the positive correlation between program completion and “stakes in conformity,” including the variables of age (being older), marital status (being married) and employment (being employed). [15, 65]

### Implications for Probation

*Screening referrals based on the common variables found to correlate with successful completion — age, prior criminal history and substance abuse — can reduce program failure. Alternatively, supplemental conditions targeting abusers with these characteristics may be necessary to assure successful program participation.*

Studies also find that many of the same variables that predict non-completion also predict reabuse and general recidivism. In the Florida probation study, an examination of court-referred batterers found that the same characteristics that predicted rearrest (including prior criminal history and stakes in conformity) also predicted missing at least one court-mandated program session. [65] Other studies, including a study of two Brooklyn batterer intervention programs, also found that employment correlated both positively with completion and negatively with rearrest. [36]

However, prior criminal history remains the strongest and most consistent predictor of non-completion and new

arrests. In the Brooklyn study, defendants with a prior arrest history were found to be four times more likely to fail to complete programs than defendants without prior arrests. [36] The Bronx court study similarly found that prior arrests as well as a history of drug abuse predicted both non-completion and recidivism and found background demographics to be less important. [181]

## 8. When are noncompliant abusers likely to drop out of batterer programs?

Several studies have found that batterers who do not complete batterer intervention programs are likely to be non-compliant from the start. Furthermore, these studies found that Non-compliance at the first court monitoring predicted both program failure and recidivism. In the Brooklyn study, the strongest predictor of program failure was early non-compliance. Defendants who had not enrolled in a program by the time of their first compliance hearing were significantly less likely to complete the program than those enrolled by the first hearing. [36] These findings are similar to those found in the Bronx study. Defendants who were not in compliance at their first monitoring appearance were six times more likely to fail to complete the program than those in compliance at that time. [181] These findings are consistent with extensive research indicating that the largest proportion of court-identified abusers who reabuse are likely to reabuse sooner rather than later.

### Implications for Probation

*To safeguard victims and/or new partners, probation officers should respond immediately to an abuser's first failure to enroll in or attend a court-mandated batterer intervention program.*

## 9. What should the probation's response be if court-referred abusers are non-compliant with programs?

The Rhode Island probation study that compared probationers in specialized probation supervision caseloads with those in less stringent general caseloads found that the former committed significantly less reabuse over one year. The difference, however, applied only to what researchers called "lower risk" probationers, those without prior arrest histories. Although there were several differences in how the two caseloads were supervised, enforcement of batterer intervention program attendance was one of the major differences. The specialized group's program was more rigidly enforced, as measured by significantly more violations for nonattendance. As a result of the court violation hearings, most of the noncompliant probationers were required to attend weekly compliance court sessions until they completed the program. [139]

### Implications for Probation

*Probation officers should return probationers to court for non-compliance and explain to the judge that this technical violation constitutes a red flag and danger for the victim, not to be ignored or treated lightly.*

An evaluation of two model domestic violence courts found that victims in the court with significantly more probation revocations for noncompliance (12 % vs. only 1 % in the other court) reported significantly less reabuse than in the comparison court. In the court with more revocations, victims reported a lower frequency of physical assaults for up to 11 months after the study incident. The defendants in the court with the higher revocation rates had a significantly higher number of prior arrests than the defendants in the comparison court (8.3 vs. 3.7 %). Researchers posited that lower domestic violence arrests were obtained primarily through early detection and incarceration of probationers who either continued to reabuse or failed to comply with conditions. [101]

Broward County probation study researchers concluded the following correlation between program noncompliance and reabuse: If abusers are not afraid of violating their court orders, they are also not afraid of the consequences of committing new offenses. [64]

## 10. What should Probation's response be to abusers who reoffend while on probation, enrolled or after completing a batterer intervention program?

### Implications for Probation

*Probation officers should advocate incarceration for any probationers who reabuses while on probation, enrolled in batterer programs or after having completed the programs. Due to their limited "treatment effect," simply re-enrolling high-risk abusers in batterer programs endangers victims. Those abusers who reabuse are likely to continue doing so if left on their own.*

Batterers rearrested while enrolled or after completing a batterer intervention program are, not surprisingly, at high risk for reabusing. The multistate batterer intervention program study found, for example, that the majority of court-referred batterers who reassaulted did so more than once. [83] Similarly, a Rhode Island probation study found that batterers who were arrested for domestic violence while their prior arrest was still pending, or while they were still on probation for an earlier offense (domestic or nondomestic), had one of the highest reabuse rates of any probated abuser, averaging over 50%. [139]

## 11. What effect do batterer intervention program referrals have on victims?

Studies find that most victims are satisfied with their abusers' referral to a batterer intervention program. In the Bronx study, 77% of victims were satisfied with the case outcome if the abuser

### Implications for Probation

*Probation officers have an affirmative obligation to warn the victims of their probationers that batterers' attendance at batterer programs does not ensure the cessation of abuse during or after the program. On the whole, unless batterer intervention programs are closely monitored and program compliance is rigorously enforced, batterer intervention programs may be ineffective for most abusers and give victims false hope, encouraging them to remain with dangerous abusers.*

was ordered to attend a program, compared to only 55% of victims who were satisfied when the abuser was not required to attend a program. [145] A survey of victims of men attending batterer intervention programs throughout Rhode Island found most female victims enthusiastic about the batterer programs. Some victims who were enthusiastic were reassaulted but still felt that the program improved their situation. [138] Program enrollment may also influence victims to remain with their abusers. Victims are more likely to remain with their abusers if their abusers are in treatment programs and are hopeful that the abusers will “get better.” [63, 81]

## VI. What the research has to tell probation about their role in responding to IPV?

### 1. Can probation make a difference, protect victims, provide for general deterrence and prevent IPV in the next generation?

The research clearly supports the fact that the criminalization of IPV that began towards the end of the last century has been associated with a dramatic decline nationally for both lethal and nonlethal IPV. Since 1994, the rate of serious IPV has declined 72% for females and 64% for males though 2011 and domestic violence murders of women have dropped from 1,403 in 1994 to 926 in 2011 and for men from 684 to 385 in 2004. [67, 147] Studies also suggest that enhanced, specialized probation response to IPV caseloads can maximize the positive impact of IPV criminalization in two fundamental ways. First, through the revocation process, probation can, in effect, correct dispositions that allowed dangerous abusers to remain in the community without adequate sanctions to deter their reabusing. Second, by ensuring that lower risk abusers complete batterer programs and deal with their substance abuse, probation officers can protect victims and their children from further abuse, effectively intervening in the cycle of IPV, preventing IPV in the next generation, too.

#### Implications for Probation

*To the extent that probation can stop one batterer, a related child who might otherwise grow up in an environment of IPV will be less likely to grow up to be an abuser or victim. So, the evidence suggests that yes, probation can make a difference in not only deterring the abuser probationer, but reinforcing the social norm that defines acceptable behavior within families, and help ensure the IPV does not continue in the next generation.*

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