



# Innovative Responses to Domestic Violence in Criminal Cases

By Hon. Elizabeth Pollard Hines and Lore A. Rogers

Domestic violence homicides are far too frequent. Media reports quote family or friends as “shocked” and lamenting that there was nothing anyone could have done to prevent it. Fortunately, many Michigan communities have realized there *are* things that can be done to prevent intimate partner homicides. The criminal justice system, including courts, attorneys, probation officers, and others, has been a critical partner in those efforts.

## Thinking outside the bench: Implementing a coordinated community response

One of the best ways to prevent intimate partner homicides is to effectively address and intervene in domestic-violence-related misdemeanor cases before the abusive partner’s behavior escalates to a felony or murder. Research and anecdotal evidence indicate that when the criminal justice system and service providers work together in a coordi-

nated community response, they can identify system gaps, plan for effective intervention that protects victims, and improve community safety.<sup>1</sup>

Formal coordinated community responses in Michigan include the Oakland County Coordinating Council Against Domestic Violence, the Capitol Area Domestic & Sexual Violence Coordinating Council, and Lakeshore Alliance Against Domestic Violence. Less-structured collaboratives can also create long-lasting system improvements in the response to domestic violence. In Washtenaw County, criminal justice and community partners meet quarterly to identify and address issues in the system such as civil standby procedures, training on strangulation, and institutionalizing effective conditions of pretrial release and probation.

Judge Elizabeth Pollard Hines has been a key player in the Washtenaw County collaborative for more than 20 years. When Judge Hines and members of the county collaborative realized the community needed a batterer intervention program for

Spanish-speaking defendants, the local intervention program created one. That program, Alternatives to Domestic Aggression at Catholic Social Services, also implemented a batterer intervention program in the jail for offenders deemed too dangerous to release on probation. Similarly, when Washtenaw County partners recognized the needs of victims whose abusive partners threatened to harm their pets if they fled and left those pets behind, SAFE House, the local domestic violence shelter, worked with the local Humane Society to develop a protocol for the Humane Society to house family pets when victims and their children stay at SAFE House.<sup>2</sup>

Defense attorneys play a critical role in a coordinated community response. They help ensure that protocols adopted by the courts do not threaten due process for defendants. Defense counsel may become more aware of the nature and dynamics of domestic violence through their participation in a coordinated community response. Patricia Reiser, an experienced attorney representing defendants on the domestic violence docket in the 15th District Court in Ann Arbor, stresses the importance of defense attorneys' understanding the dynamics of domestic violence, the collateral consequences, and treatment options for convicted offenders to best advise clients of all their options.<sup>3</sup>

### Implementing specialized domestic violence dockets

One change a district court can make to significantly improve the administration of justice in domestic violence cases is the creation of a dedicated domestic violence court or docket. As veteran Domestic Violence Court Judge T. J. Phillips of the 86th District Court, now retired, explains, "DV cases are by nature complicated. A specialized DV court makes them less complicated. DV courts increase the chance for better outcomes for both the victim and the defendant."<sup>4</sup>

#### Dedicated domestic violence dockets<sup>5</sup>

The authors have more than 20 years of experience working with domestic violence cases, in regular dockets and in dedicated domestic violence dockets. In a traditional district court docket, domestic violence cases are mixed in with other criminal cases such as retail fraud, operating while intoxicated, or driving on a suspended license. Domestic violence victims and defendants may wait hours for their cases to be called. The unique risks of harm posed by domestic violence cases may become lost when these cases are placed on a mixed docket. It is harder for court security to observe instances of intimidation and coercion when so many people are present in the courtroom for different reasons. To deter participation in criminal prosecution, victims in domestic violence cases are often subjected to threats and intimidation. This intimidation can come not only from the defendant, but also from the defendant's family or friends.

A dedicated or specialized domestic violence docket can effectively address these issues. Scheduling only domestic violence cases at designated days and times is something any district court can do without additional costs. Doing so allows judges to more safely manage their courtrooms and minimize witness intimidation. It also gives judges more time to listen to the issues presented by all sides. Specialized dockets can also make better use of scarce resources: prosecutors can assign a dedicated domestic violence prosecutor; community-based and prosecutor victim advocates can staff the courtroom to provide information, referrals, and support; and batterer intervention programs can make information available for defense counsel and defendants. Victims would then have the opportunity to make more informed decisions about what is safest for themselves and their children.<sup>6</sup>

#### "Rocket dockets"

A dedicated docket also gives courts the ability to prioritize domestic violence cases. A common shared experience of advocates, prosecutors, and judges is that the longer it takes for a domestic violence case to be resolved, the more likely it is that victims will decide—for many reasons, including pressure or intimidation—that continued participation in prosecution is not in their best interests. Accordingly, it serves the interests of justice and the safety of victims to avoid undue delays. With a dedicated docket, for example, Judge Hines has been able to hold pretrial hearings within two weeks of arraignment and allow for expedited jury or bench trials.

#### Post-conviction domestic violence courts

Judge Thomas Boyd of the 55th District Court in Ingham County presides over post-adjudication bond supervision, sentencing, and probation in all cases with domestic violence

## AT A GLANCE

**The criminal justice response to domestic violence has been adapting over time to more effectively address cases of intimate partner crimes. A coordinated community response, specialized domestic violence dockets, intensive probation supervision, and the implementation of high-risk teams are options that every community can adopt to improve outcomes for both victims and defendants.**

dynamics. He provides intensive judicial oversight, conducting biweekly compliance review hearings for repeat offenders and tougher cases. Judicial review hearings allow ongoing risk assessment as circumstances change.<sup>7</sup> In the 8th District Court in Kalamazoo County, Judge Anne Blatchford holds compliance reviews in a dedicated post-conviction court overseeing domestic violence offenders assessed into a 52-week batterer intervention program.<sup>8</sup> A dedicated domestic violence probation officer works to ensure that offenders are assigned to, and participate in, programs that address not only the violence and abuse, but also any substance use, co-occurring disorders, and educational, employment, or personal goals of the probationer. Blatchford has observed that the specialized post-sentencing probation docket, with its focus on counseling, structure, motivation, and accountability, “is a powerful tool to promote permanent change of behavior.”<sup>9</sup>

### Comprehensive domestic violence courts

In Washtenaw and Eaton counties, designated judges preside over domestic violence cases from arraignment through post-conviction review hearings. Judge Charles Pope of the 14B District Court in Washtenaw County notes that “it’s important to catch the defendant’s attention at arraignment.”<sup>10</sup>

Judge Julie Reincke of the 56A District Court in Eaton County points out that domestic violence cases benefit from the extra attention provided by a treatment court procedure. “The defendants get the message that it is very important that they change their attitudes and behavior and if they don’t, they will experience consequences,” she said. “It is satisfying for those of us working in the system—judge, probation officers, treatment, attorneys—to realize the improvement our work is making in the lives of many children, spouses/partners, extended families, workplaces, and friends.”<sup>11</sup>

Traverse City and other jurisdictions have developed procedures to provide the arraigning judge or magistrate with information to help them make informed decisions about appropriate conditions of pretrial release. Improved bond forms provide not only the defendant’s criminal history, but also indicate whether there is a personal protection order and if any weapons were used or threats made. Judges carefully explain the conditions of release to defendants, including no use or possession of alcohol, marijuana, illegal drugs, or drug paraphernalia; and no purchase or possession of firearms, ammunition, or other dangerous weapons.<sup>12</sup>

### Procedural fairness

Specialized processes emphasize procedural fairness. Research shows that defendants are more likely to comply with orders, even if they disagree with them, if the orders are clearly understood and the defendants feel they were given an opportunity to be heard.<sup>13</sup> In our collective experiences, this means taking time to explain that “no contact” includes

more than just contact in person—it includes no contact or communication through other people or via social media. Defendants may be required to delete the victim’s information from their phone contact lists or social media accounts to prevent any “accidental” contact. Per MCL 765.6b, courts should also make clear that these conditions will be visible on the state’s Law Enforcement Information Network to any officer at any time, and that officers can arrest a defendant without a warrant for a suspected violation.

### Other innovative practices

#### Creative probation supervision of domestic violence offenders

David Oblak, the domestic violence probation officer in the 15th District Court in Ann Arbor, conducts group meetings of probationers attending the same batterer intervention program.<sup>14</sup> Group meetings have several benefits. Probationers support each other with rides and information about jobs and other resources. They learn from others’ experiences and see that they, too, can succeed on probation while managing a job, family, and other commitments. And they see that there are consequences for violations. Additionally, conducting group meetings gives the probation officer more time for victim follow-up and addressing complex needs of individual probationers.

#### Responding to female offenders

Different interventions are necessary for female offenders. In Judge Hines’s experience, it is not effective to send women convicted of domestic violence to a batterer intervention program with men or to an intervention program in which the only difference is that the pronouns are changed to “she.” Lisa Young Larance, an internationally recognized expert in women’s use of force, created a program for female offenders in Washtenaw County called RENEW.<sup>15</sup> Courts in Oakland County and other jurisdictions also use programs modeled after RENEW.

#### High-risk domestic violence teams

Some Michigan communities have developed high-risk teams to identify and effectively respond to cases where the offender poses a heightened risk of severe injury or death to the victim. The Farmington Hills High Risk Domestic Violence Response Team—the first in Michigan—meets regularly with local stakeholders to identify high-risk situations, leverage resources, and find solutions.<sup>16</sup> Their coordinated community response includes prevention and community education. Based on the Jeanne Geiger Crisis Center High Risk DV Response Team in Massachusetts, the Farmington Hills team has served as a model for communities in Michigan<sup>17</sup> and other states.

## Sending a consistent message

Each of these criminal justice practices is important. Together, they create a consistent message designed to change beliefs and behavior and deter future violence and abuse. As stated by David Garvin, a nationally recognized expert on battering intervention and a collaborative partner in Washtenaw County:

[T]he first message that domestic violence is a crime starts with law enforcement, then the prosecutor, the probation agent who does the PSI, the judge or jury, and then the supervising probation agent. Each one of these community partners plays a key role in delivering this message and that message is one of insistence on cessation of violence, compliance with directives, and change in attitudes, beliefs and behaviors.<sup>18</sup>

Every jurisdiction in Michigan has the ability to begin sending this message to victims, offenders, and their communities by incorporating one or more of these practices in their courts. ■



*Elected in 1992 to the 15th District Court in Ann Arbor, Judge Elizabeth Pollard Hines presides over a nationally recognized, specialized domestic violence docket. She is active in the American Judges Association, the State Planning Body, and the Michigan Domestic and Sexual Violence Prevention and Treatment Board. Chief Justice John G. Roberts Jr.*

*presented her with the 2018 NCSC William H. Rehnquist Award for Judicial Excellence at the United States Supreme Court.*



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## ENDNOTES

- See, e.g., Troy, *DV in 3-D: Coordinating a Community Response*, Vermont Guardian, NCDSV (May 10, 2007) <[http://www.ncdsv.org/images/DV%20in%203-D\\_Coordinating%20a%20Community%20Response.pdf](http://www.ncdsv.org/images/DV%20in%203-D_Coordinating%20a%20Community%20Response.pdf)> [<https://perma.cc/TX8B-9LD9>]; Post et al, *An Examination of Whether Coordinated Community Responses Affect Intimate Partner Violence*, 25 *J of Interpersonal Violence* 75 (2010) <<https://doi.org/10.1177/0886260508329125>> [<https://perma.cc/M79C-XS4E>]; and Orchowsky, *Evaluation of a Coordinated Community Response to Domestic Violence: The Alexandria Domestic Violence Intervention Project: Final Report*, Applied Research Associates (1999) <<https://www.ncjrs.gov/pdffiles/nij/grants/179974.pdf>> [<https://perma.cc/K2F9-LDLZ>]. All websites cited in this article were accessed May 31, 2019.
- If a pet is left behind with an abuser, fear for the pet's safety can be a major barrier to victims' seeking safety; up to 48 percent of domestic violence shelter residents report delaying leaving the relationship because of such concerns. Ford, *Animal Welfare & Family Violence: Implications for Practice*, 7 *Technical Assistance Bulletin* 1, Justice for Families, Ctr for Court Innovation (Spring 2018), pp 3, 6.
- Email correspondence with Patricia Reiser, Esq. (February 4, 2019).
- Email correspondence with Judge T. J. Phillips (February 8, 2019).
- While not necessarily exhaustive, in an informal survey conducted by the Michigan District Judges Association in 2019, 12 district courts self-identified as having some form of a specialized domestic violence docket. Survey reports provided to the authors by Judge Kirk Tabbey through email correspondence (February 6, 2019).
- E.g., Wolf, *Leading by Doing: Innovations in Addressing Domestic Violence in Rural Virginia*, Ctr for Court Innovation (October 2018) <<https://www.courtinnovation.org/publications/leading-doing-innovations-addressing-domestic-violence-rural-virginia>> [<https://perma.cc/3LRD-8HCY>] and Amy Karan, *Domestic Violence Court Judge*, Ctr for Court Innovation (July 2005) <<https://www.courtinnovation.org/publications/amy-karan-domestic-violence-court-judge>> [<https://perma.cc/RQ2S-BL6F>].
- Phone conversation with Judge Thomas Boyd (May 23, 2019).
- Convicted domestic violence defendants assessed as appropriate for a shorter batterer intervention program are not put into Judge Blatchford's domestic violence court.
- Email correspondence with Judge Anne Blatchford (February 6, 2019).
- Phone conversation between Judge Elizabeth Pollard Hines and Judge Charles Pope (April 3, 2019).
- Email correspondence with Judge Julie Reincke (February 5, 2019).
- Removing firearms can reduce domestic violence homicides by 10–13 percent. *Fact Sheet: Intimate Partner Violence and Firearms*, Ctr for Gun Policy and Research, Johns Hopkins Bloomberg School of Public Health <[http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/IPV\\_Guns.pdf](http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/IPV_Guns.pdf)> [<https://perma.cc/RUY8-EHD6>]. An abuser's access to firearms in domestic violence situations increases the risk of homicide for women. Campbell et al, *Risk factors for femicide within physically abusive intimate relationships: results from a multi-state case control study*, 93 *Amer J of Pub Health* 1089 (2003) <<https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.93.7.1089>> [<https://perma.cc/EBS3-CHYT>].
- Burke & Leben, *Procedural Fairness: A Key Ingredient in Public Satisfaction*, American Judges Ass'n (2007) <<http://www.amjudges.org/pdfs/AJAWWhitePaper9-26-07.pdf>> [<https://perma.cc/QYH3-45U5>] and Malangone, *Integrating Procedural Justice in Domestic Violence Cases: A Practice Guide*, Ctr for Court Innovation (2017) <<https://www.courtinnovation.org/sites/default/files/documents/Practice-Guide-PJinDV.pdf>> [<https://perma.cc/UZN8-6CL2>].
- Probation group meetings were developed by James E. Henderson Jr., MSW, a former 15th District Court domestic violence probation officer who now does training on domestic violence probation worldwide. Based on the collective experiences of the authors, these meetings appear to be a key factor in defendants' successfully completing domestic violence probation in the 15th District Court.
- The philosophy of RENEW is driven by the belief that women—whether domestic violence survivors or not—who use force against a partner escalate the level of violence against themselves and, potentially, put others in their lives at risk of harm. *RENEW for Women*, Catholic Services of Washtenaw County <<https://csswashtenaw.org/renew/>> [<https://perma.cc/Y6CK-MJ4U>].
- Email correspondence with Lt. Jon Haupt of the Farmington Hills Police Department (February 12, 2019).
- First Step, Inc., the domestic violence service provider in western Wayne County, began a high-risk team with the Canton Township police in 2015. *Fall 2015 Newsletter*, First Step <[http://www.firststep-mi.org/cms/wp-content/uploads/2016/02/2015-fall-newsletter\\_final\\_web.pdf](http://www.firststep-mi.org/cms/wp-content/uploads/2016/02/2015-fall-newsletter_final_web.pdf)> [<https://perma.cc/45YU-478S>]. Washtenaw County also has a high-risk team, per Judge Hines.
- Email correspondence with David Garvin (February 6, 2019).