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*Sponsored by:*

*Washington State Domestic Violence Task Force*

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***Final Report  
of the  
Washington State  
Domestic Violence Task Force***

***June 1991***

*Prepared by:*

***OFFICE OF THE  
ADMINISTRATOR  
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## **Domestic Violence Task Force Executive Summary**

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The Domestic Violence Task Force was mandated by the 1990 legislature to study domestic violence issues in the criminal justice system and make recommendations for reform. Judge Laura Inveen, King County District Court, chaired the twenty-three member Task Force which met at least monthly beginning in September 1990.

The Task Force established goals and objectives that could be completed within the time frame and budget constraints set by the legislature.

The Task Force goals were:

- 1) Evaluate criminal court issues in domestic violence cases; and
- 2) Review specific recommendations of the Task Force on Gender and Justice in the Courts with respect to civil court issues in domestic violence;
- 3) Study current status of services for domestic violence victims and interventions for offenders.

The purpose of this report is to provide recommendations for an effective criminal justice response to domestic violence. While it is the hope that everyone in the community will benefit from this report, it is specifically addressed to legislators, law enforcement, judges, court administrators, prosecutors, probation officers, victims' service providers, and individuals who provide interventions for batterers. Any effective criminal justice response to domestic violence must include a coordinated effort on the part of all those involved. If one part of the system is lacking, the entire effort will be ineffective.

The following is a listing of the Task Force's recommendations. For more information, background, and a complete listing of the guidelines mentioned in the recommendations consult the appropriate section in the final report.

## **Recommendations**

### **Domestic Violence: A Coordinated, Comprehensive Community Response**

1. Each county should establish a task force or commission to develop a comprehensive, community response to domestic violence. This group should consist of representatives from victims' advocacy groups, law enforcement, criminal and civil courts, prosecutors, probation, legal defense, batterers' treatment providers, and other concerned citizens:

### **Domestic Violence: Criminal Court Issues**

#### Mandatory Arrest with Probable Cause Provision of the Domestic Violence Prevention Act

2. Continue the mandatory arrest with probable cause provision of the law.
3. Given the high incidence as well as seriousness of domestic violence, the legislature should allocate adequate funding resources for a coordinated criminal justice response to include law enforcement, courts, prosecution, and probation.

#### Criminal Justice Response to Domestic Violence

##### Law Enforcement

4. Law enforcement should have continuing education for all personnel, including supervisors, on the law, departmental policies, and the dynamics of domestic violence.
5. Law enforcement agencies should develop written policies and procedures for responding to domestic violence. These policies and procedures should address:

\* Response priority;

- \* Arrest decisions;
- \* Evidence gathering and witness statements (including children); and
- \* Victim services and referrals.

6. Law enforcement should establish policies and procedures that provide for swift service of protection orders and establish service as a high priority within the department.

7. Law enforcement should establish procedures to mark and track domestic violence cases for appropriate case processing. (See the section on data collection.)

### Prosecutors

8. Prosecutors should have continuing education on domestic violence issues, domestic violence case preparation, evidentiary problems, and sensitivity in dealing with domestic violence victims.

9. Diversion should not be used in domestic violence cases.

10. Prosecution is the preferred response to criminal domestic violence cases. Prosecutors should employ policies and procedures utilizing the guidelines outlined in this report for dismissing, charging, and trying cases.

11. If an alternative to prosecution is used, then a Stipulated Order of Continuance program as outlined in this report should be employed. (See Stipulated Order of Continuance guidelines page 28.)

12. Deferred prosecution is not recommended in domestic violence cases.

13. Prosecutors should develop written filing standards for misdemeanor and felony domestic violence cases.

### Courts

14. Judges and court personnel should have continuing education on domestic violence; victims; perpetrators; domestic violence statutes; criminal case issues; civil court cases; protection orders, no contact orders, and restraining orders; and policies and procedures for domestic violence cases.



15. Courts should adopt the guidelines outlined in this report for processing domestic violence cases.

### Probation

16. All jurisdictions should have probation units. Those jurisdictions without resources should appoint a designated court officer qualified to perform probation functions.

17. Probation departments should adopt policies and procedures utilizing the guidelines outlined in this report for processing domestic violence cases.

### Data Collection

18. The legislature should amend RCW 10.99.030 to require centralized statewide, law enforcement data collection and identification of all incidents of domestic violence.

19. The legislature should explore the use and funding of Incident Based Reporting as a replacement for the voluntary Uniform Crime Reporting system currently being used by law enforcement agencies.

## **Domestic Violence: Civil Court Issues**

### Domestic Violence Protection Orders

20. The legislature should amend RCW 26.50.035, development of forms and instructional brochures, to require the administrator for the courts to prepare simplified mandatory forms and instructions for protection order petitions and orders. Include within the packet of standardized, simplified forms, an information sheet to assist petitioners in completing the protection order application.

21. Each court and clerk's office in the state should have a simple brochure that describes the protection order, the no contact order, the restraining order, and the anti harassment order. The brochure should explain the process to obtain these orders and contain a list of local community resources.

22. The simplified forms, instructions, and brochures should be accessible to non- or limited-English speaking populations.

23. A clerk's handbook on domestic violence and the protection order process should be prepared and distributed to court personnel statewide.

#### Sanctions for Violations of Protection Orders

24. Violations of protection orders should be prosecuted.

25. Current sanctions for violations of protection orders should be vigorously employed including the use of jail for the first offense:

26. Graduated fines and penalties should be imposed based on the number of times the respondent has been convicted of criminal contempt for violating a civil protection order.

27. Further study of the Sentencing Reform Act should be made to allow for sentences to be imposed which include probation supervision, batterers' treatment, and other appropriate options.

#### Mutual Domestic Violence Protection Orders

28. The legislature should amend RCW 26.50 to prohibit issuance of mutual orders for protection without proper legal process for each cause of action (notice and filing of a written petition or counterclaim) and statutory findings of good cause.

#### Civil Domestic Violence Cases Jurisdiction

29. The jurisdiction of courts in domestic violence cases should remain as it is currently in RCW 26.50.020. This statute states the jurisdiction of domestic violence cases remains with district and municipal courts. However, jurisdiction is limited to temporary orders if any of the following conditions exist: a) a superior court has exercised or is exercising jurisdiction in a juvenile dependency case involving the parties, b) the petition involves visitation schedules of children of the parties, and c) the petitioner requests the court to exclude one of the parties from the dwelling which the parties share. Under any of these conditions the district or municipal court must transfer the case to the superior court.

## **Services for Victims and Interventions for Batterers**

### Domestic Violence Legal Advocates

30. The legislature should increase community-based, domestic-violence, legal-advocacy funding.
31. Court-based domestic violence legal advocates should also be available.

### Services for Victims

32. The legislature should increase general operational funds for all domestic violence shelter and safehome programs.
33. The legislature should provide funding for children's services in all domestic violence shelter and safehome programs.
34. The Washington State Coalition Against Domestic Violence should be recognized and funded as the statewide coordinating agency for domestic violence victims' services.

### Interventions for Batterers

35. The legislature should subsidize offender treatment for indigent or poverty level offenders with the following conditions:
  - 1) Priority be given to funding for services for victims. (See services for victims and interventions for batterers section.)
  - 2) The batterer be expected to pay something for treatment, even if the amount of co-payment is small.
  - 3) Funding for batterers' treatment be contingent on:
    - a. The batterers' treatment program being part of a coordinated, community-wide response to domestic violence.
    - b. Subsidies being for court-ordered indigent offenders;

- c. Only treatment provided by certified domestic violence perpetrator counselors or programs meeting standards be subsidized; and
- d. Funding be provided only for treatment provided, not for projected treatment.

36. A statewide coordinating network or organization for batterers' treatment providers and probation personnel should be established. This network should include representation from the Washington State Coalition Against Domestic Violence.

#### Standards for Batterers' Treatment Programs and Therapists

37. The legislature should adopt certification standards developed by the Seattle-King County Domestic Violence Intervention Committee and the King County Human Services Roundtable for domestic violence perpetrator treatment counselors and programs. Make certification a requirement for receiving court referrals.

38. Compliance with standards for perpetrator treatment counselors and programs should be reviewed and evaluated on a yearly basis. The process of establishing, implementing, and evaluating these standards should always include the participation of battered women's advocacy groups such as shelter programs or the Washington State Coalition Against Domestic Violence as well as other relevant groups.

39. The legislature should amend RCW 26.50.060(d) to insert the word "batterers" before the word treatment and delete "counseling services" in order to make it clear that batterers must attend specialized treatment specifically designed to end their battering behavior.

#### Standards for Victims' Service Providers

40. Maintain current minimum standards for domestic violence shelter and safehome programs as stated in the Washington Administrative Code as a condition for receiving state funding.

41. The Department of Social and Health Services should solicit input from the Washington State Coalition Against Domestic Violence when reviewing and making changes to standards and funding formulae for domestic violence victim service providers.

# Introduction

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Domestic violence is a problem of immense proportions that diminishes the life of every citizen of every community. Domestic violence has been cited as the major health care problem in the United States affecting more individuals and families than any other single health care problem (U.S. Surgeon General C. Everett Koop). It has been recognized as being at the core of other major social problems: individual alienation, child abuse, other crimes of violence against person or property as well as alcohol and drug abuse. Domestic violence along with other types of family violence--child abuse and neglect, sibling violence, and the abuse of the elderly--is destroying not only families but also communities. The crisis is growing while efforts to stem the epidemic have been stalled by the lack of coordinated, comprehensive, community-based, and adequately funded plans.

In the past fifteen years there has been a growing awareness of and concern about domestic violence in Washington State. Various victim advocacy, law enforcement, criminal justice, perpetrator intervention, and citizen action groups have gathered together to respond to one aspect or another of the problem. Laws have changed, programs have developed, and much has been learned. In more recent years there have been attempts for these groups to coordinate their efforts through such coalitions as the Washington State Coalition Against Domestic Violence, various county coalitions against domestic violence, the King County Human Services Roundtable, and others.

In 1989 the Washington State Task Force on Gender and Justice in the Courts, recommended that the legislature establish a task force to implement its recommendations and other matters relating to domestic violence. In 1990 the Washington State Domestic Violence Task Force was funded and directed to study specific domestic violence issues and make recommendations for reform. The committee consisted of representatives from the executive branch, the legislature, the judiciary, law enforcement, legal defense, prosecutors, court personnel, probation, victims' advocates, batterers' treatment providers, and interested citizens. This final report represents their study and recommendations on certain issues regarding domestic violence. Given the time limitations and the mandate from the legislature, some issues received more attention than others and certain topics have been left for future study.

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<sup>1</sup> Portions of the introduction and section on domestic violence were written and first published in *Domestic Violence: A Community Crisis Waiting for a Community Re-sports*; " 1989 and *Domestic Violence: the Crucial Role of the Judge in Criminal Court*," 1991 by Dr. Anne Ganley.

To be effective, interventions for any problem must be based on a thorough understanding of what the problem is, why it is occurring, how it impacts individuals and the community, and what responses are necessary to eliminate it. Therefore, in addition to the executive summary of the recommendations, the report includes a delineation of the nature of domestic violence and how it can be best addressed using the role of the courts and other criminal justice agencies.

The process of developing the report taught the Task Force 'a great deal about what has been accomplished and what crucial gaps remain in the courts' response to domestic violence. The Task Force members were reminded again what their vast experience with domestic violence had already taught them--domestic violence is deeply rooted in social institutions as well as in family life. In fact social institutions, such as the criminal justice system or civil courts, by neglecting or refusing to address the problem directly and appropriately, foster domestic violence. For domestic violence to be eliminated, social institutions as well as individuals in families must change.

Furthermore, the Task Force learned that to end domestic violence, we must work with all parts of the system. We must join with others who are working to stop the other forms of family violence directed at children and the elderly. We must work together to develop coordinated, comprehensive plans that can be implemented in different kinds of communities throughout the state. The role of the community is not only to develop and implement such plans, but also to establish and promote violence free norms for family life. This report is one contribution to those comprehensive plans and to those new norms for violence free families.

The purpose of this report is to provide recommendations for an effective criminal justice response to domestic violence. The report focuses on three primary areas: criminal court issues in domestic violence, civil court issues in domestic violence, and services for victims and interventions for batterers. While it is the hope of the Task Force that everyone in the community can benefit from this report, it is specifically addressed to legislators, law enforcement, judges, court administrators, prosecutors, probation officers, victims advocates and batterers' treatment providers. Any effective criminal justice response to domestic violence must include a coordinated effort on the part of all involved. If one part of the system is lacking, the entire effort will be ineffective.

# Domestic Violence: The Realities

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## Definitions

Domestic violence goes by many names--spouse abuse, wife abuse, marital assault, woman battery, etc. Regardless of what it is called, domestic violence is assaultive behavior committed by one adult intimate against another. Domestic violence is a pattern of controlling behavior that consists of physical, sexual, and/or psychological assaults. It is primarily a learned pattern of behavior whose effects, without intervention, become more destructive over time. While domestic violence is directed at a particular victim, it also victimizes children, families, strangers, and the community.

Like the other types of family violence--child abuse and neglect, sibling violence, and the abuse of the elderly--domestic violence is occurring in the context of an intimate relationship where victim and offender are or have been "family" to each other. It may occur in a variety of relationships--married, separated, divorced, - dating, heterosexual, gay, and lesbian.

Domestic violence includes a variety of behaviors, some physically injurious, some not; some criminal, some not; all are psychologically damaging. The physical assaults range from pinching, grabbing, spitting, slapping, shoving, throwing, punching, kicking, choking, using weapons, to homicides. The sexual assaults range from unwanted touch, coerced sexual contacts, forced sex with third parties, sex following violence, to rape. The psychological abuse is always part of the pattern. Frequently, domestic violence includes threats of all types (violence, suicides, custody battles, etc.), breaking objects, hurting pets, yelling, silence, driving to endanger, kidnapping, isolating family members from all others, and controlling resources such as money, vehicles, credit, and time. Usually physical, sexual, and psychological violence occur in patterns in which one episode builds on a previous event and sets the stage for a future episode. The result of domestic violence is to set up a relationship of the perpetrator dominating and controlling the victim.

Domestic violence, particularly of an injurious or life threatening nature, is primarily perpetrated by men toward women. Severe violence in a relationship results in victimization of a woman in 90 percent of the cases. (Berk et al., 1983, Rosenbaum et al., 1981, and Ganley, 1989.) While women sometimes use physical force against partners, it is often physical self defense. (Saunders, 1986.) Even though there seems to be a gender pattern, in the courts it is important to take domestic violence seriously regardless of who is doing it to whom. In Washington, to determine the primary aggressor as defined by law, prior acts of domestic violence,

size and force of the aggressor, etc. must be considered. (See section on the law.) In addition to the primary victims, children who witness violence between their parents are psychologically affected as though they themselves were the direct victims of abuse. They display the same patterns of troubled behavior as abused children. (Goodman et al., 1986.) In addition, the batterer's violence ripples into the community, damaging any who are in its path.

### Causes

The majority of domestic violence is learned through observation (as in cases of the male child witnessing the abuse of his mother by his father, or in the proliferations of images of violence against women in the media). Not only is the violence learned but so are the rules and regulations of when, where, against whom, and by whom domestic violence is to be used. Domestic violence results from a combination of individual, familial, and social factors.

Domestic violence is learned and reinforced by the individual's interactions with all of society's major institutions: the familial, social, legal, religious, educational, mental health, medical, media, etc. In all social institutions there are various customs that perpetuate the use of violence as legitimate means of controlling family members at certain times (e.g., religious institutions that state that a woman should submit to the will of her husband). Until recently, domestic violence was rarely considered a crime and was often brushed off as a private matter, not worthy of the criminal court's attention. These practices of not holding the perpetrator accountable inadvertently reinforced the use of violence to control intimates.

A very small percentage of domestic violence cases in courts is illness rather than learning based. These rare cases can be found with individuals with diseases such as Alzheimer's disease, Huntington's Chorea, or psychosis. These cases are relatively easy to identify and they need specific assessment and disposition.

Domestic violence is not caused by alcohol abuse or the abuse of most drugs. Substance abuse becomes the excuse for domestic violence when in fact it is not the cause. The reality is that the person who is abusing substances and is domestically violent has two problems and not one. Therefore, intervention must be directed at both problems or the intervention will fail.

Domestic violence is not caused by stress. Most individuals at one time or another are going to experience significant stresses or conflicts. Not all become violent. Perpetrators, to be rehabilitated, must be held accountable for the choices they make to solve their problems. Domestic violence is not caused by the behaviors of the victims. Those who are abusive will be abusive regardless of how the victims are acting. Victims are battered when they are compliant or when they resist, when



they are quiet or when they speak up, when they protect their children by fighting back or by giving in, when they refuse to do illegal or unethical things for the batterer, or when they are sleeping. Looking at the victim's behavior as a causal explanation for the domestic violence takes the focus off the batterer's behavior and responsibility. This results in blaming the victim and in supporting the perpetrator's minimization, denial, externalization, and rationalization.

### Batterers

Batterers come from all races, socioeconomic classes, ages, religious affiliations, occupations, and educational backgrounds. Some batterers minimize, deny, and externalize. They say things such as "it was just a shove," "it was just a misunderstanding," "she's an alcoholic," "I've been under a lot of pressure," "it's this new law," and "I got a hanging judge." Because it is painful to recognize that they are battering their partners, they con themselves into believing it is not that bad or that it really is the fault of the victim or someone else. Others lie in order to avoid the consequences of being held accountable for their behavior.

They are very controlling of others and use physical, sexual, and psychological tactics to control their partners. Battering is not out of control behavior. Even when batterers are their most upset, they make choices about what violence they will or will not use. They often isolate their victims by constant monitoring of their behavior and by repeated outbursts of temper. They will alternate physically or sexually abusive acts with loving gestures or signs of profound remorse. They batter daily, merely altering the tactics necessary to maintain some control over their partner. If they cannot control their partner by attacking that person, they will use their children as a way to control the adult intimate. For example, they will insist that at least one child be continually with the victim, interrogate the children about the victim, manipulate parenting plans, and kidnap children in order to coerce the victim to do something. When confronted with legal proceedings, they will continually batter the victim and attempt to gain control over the legal proceedings by requesting repeated continuances, destroying subpoenas mailed to victims, harassing or assaulting the victim, etc. Much of what the courts perceive as a reluctant witness or petitioner is actually the result of the perpetrator's abusive control.

Perpetrators have positive qualities as well as their abusiveness. Some may be good providers, hard workers, good conversationalists, witty, charming, intelligent, etc., while also battering their victims. Sometimes the court, the community, and the victim are misled by these positive qualities and assume that the violence did not really happen since only individuals who are "monsters" could commit such acts, or that the violence can be ignored because this "good" person will soon stop. The reality is that even seemingly normal and nice people may batter and may be very dangerous.

## Victims

Victims of domestic violence come from all races, socioeconomic classes, educational backgrounds, occupations, ages, religious affiliations, and personality profiles. Being a victim of domestic violence is the result of behaviors done by the batterer rather than the result of the victim's personal characteristics. Victims of domestic violence come from all walks of life and their only commonality is that they are victims of violent crime.

How victims respond and are affected by their victimization varies according to the severity and frequency of the violence, the degree of isolation imposed, the amount of control the perpetrator maintains, and the availability of safety and protection in the community. Contrary to the myth-that all battered women are passive or ambivalent, battered women use many different strategies to cope with and to resist the abuse.

The victim of domestic violence has the same goal as the criminal justice system-to stop the violence. While the system is attempting to accomplish this through a variety of legal strategies which may bring about change in the long term, the victim is often attempting to stop the abuse immediately. Depending on the availability of resources and appropriateness of those responses by the community systems, many victims use and follow through with these approaches (going to shelters, calling police, filing a protection order, cooperating in criminal or civil court proceedings, attending support groups, etc.). If such strategies are not available or appropriate, she may resort to the survival strategies she has used in past attempts to stop the immediate battering (including complying with the batterer, etc.).

The reasons victims have for being ambivalent about staying in or returning to an abusive relationship are many. There is a myth that victims could easily leave the relationship if they wanted to and that batterers would just let them leave without violence. The major reasons given by victims for staying with the perpetrator is the realistic fear of the escalating violence. The victim knows from past experience that the abuse gets worse when the victim attempts to get help or leaves the relationship. National Crime Statistics show that in almost 75 percent of reported spousal assaults, the partners were divorced or separated. (U.S. Department of Justice, 1983, Washington D.C.).

In addition to the escalating violence, the other reasons victim stay in the relationship include:

- \* The lack of real alternatives for employment and financial assistance, especially for victims with children (often abusers control the finances and threaten the victims with poverty);

- \* The lack of affordable housing that would provide safety for the victim and children.
- \* Being immobilized by the physical and psychological trauma. Victims of trauma are often not able to organize and then do all that is required to separate and establish a new life for themselves and their children.
- \* Being told by the perpetrator, counselors, the courts, clergy, and family members that the violence is the victim's fault and she could stop it by complying with the perpetrator's demands.
- \* Believing in cultural and family values-that encourage the maintenance of the family unit at all costs.

### Children

Like the adult victims, the children in these homes may also be physically or sexually abused by the perpetrator. Physical assaults on the children may be one of the weapons used by the batterer against the victim (e.g., child physically injured when thrown in the vehicle, child abused as a way to coerce the victim to do certain things, etc.). Thirty-three percent of battered women in a Seattle shelter cite physical attacks against the children as the reason for fleeing to the shelter. National statistics gathered on families with child abuse report 50 percent overlap between child abuse and domestic violence. Sometimes the children are injured accidentally when the batterer is assaulting the victim (infant injured when mother was thrown while holding the child, small child injured when attempting to stop the batterer's attack on the victim, etc.).

Children do not have to be hit to be damaged by domestic violence. Children are victimized by witnessing domestic violence. Research reveals that children who witness domestic violence are affected in the same way as children who are physically and sexually abused. (Goodman et al., 1986.) They have more difficulties in sleep, in peer relationships, with authority figures, and in concentration on school work. Research indicates that older children show differential behavior problems that divide along gender lines. The most frequently reported cluster of symptoms for boys was aggressive, disruptive behavior-stealing, temper tantrums, truancy, fights with siblings, and peers. Girls tend to suffer somatic complaints and become withdrawn, passive, clinging, and anxious. (Jaffe et al., 1990.)

As adults, children from homes with domestic violence have higher rates of school drop out, suicide, drug and alcohol abuse, and unemployment. They are often unable to develop meaningful relationships. Male children in particular are

affected and have a high likelihood of battering intimates in their adult relationships. (Hotaling et al., 1986.)

### The Community

While the consequences of domestic violence to individuals are obvious and innumerable, the collective costs to the community are too often hidden but unending. Domestic violence contributes to the systematic destruction of individuals and the family, the foundations of our society. The community pays a high price in lost lives, not only of individual family members, but also of others. Many perpetrators injure not only their immediate victims but also those who may be trying to be of assistance (e.g., family members, law enforcement, lawyers, shelter workers, etc.) or those who may be merely innocent bystanders-(neighbors or others in the vicinity). The costs to the community are also financial--lost productivity, health care costs, criminal justice costs, social service costs. The price of domestic violence is staggering:

- \* Domestic violence is the leading cause of injury to women in the United States.
- \* The FBI estimates that one woman in two will be assaulted at least once by an intimate adult partner.
- \* The single most common reason women go to hospital emergency rooms is domestic violence.
- \* Twenty-five percent to thirty-five percent of battered women are pregnant, resulting in increased neonatal care, increased miscarriages, and increased likelihood of mental or physical disabilities of those unborn children.
- \* Over 50 percent of homeless women and children are fleeing domestic violence.
- \* Domestic violence is one of the leading causes of divorce.
- \* Group Health Cooperative of Seattle reported that families in which domestic violence occurs visit physicians eight times more often, visit the emergency room six times more often, and use six times the prescription drugs than the general population.
- \* Domestic violence results in increased costs for law enforcement, prosecution, courts, probation, and corrections.

- \* Domestic violence results in \$3 billion being lost each year due to employee absenteeism and sick leave. (Domestic Violence Intervention Committee Report, 1989.)

The recommendations in this report are based on the above realities of what domestic violence is, why it is occurring, and who the perpetrators and victims are. To be effective, any intervention strategy or program must be firmly grounded in an understanding of these issues. In addition, the recommendations grow out of the Task Force's understanding of the law and what has been shown to be effective in responding to domestic violence in this and other states.

### Washington State Law

One of the ways a community has for saying that domestic violence will not be tolerated is through its laws. In 1979 due to the efforts of domestic violence victims' advocates, Washington State passed the Domestic Violence Act (DVA). This act emphasized the criminal nature of domestic violence and established domestic violence as a priority.

A 1983 statewide study found the 1979 law inadequate and in 1984 the Domestic Violence Prevention Act (DVPA) was passed. This Act is recognized nationally as one of the toughest domestic violence laws in the country. The statutes cover two points: criminal remedies and civil remedies.

The civil provisions of the law provide for orders for protection. Specific procedures are outlined whereby victims can petition the court for protection without legal counsel. Courts are directed to provide simplified forms and charge a \$20.00 filing fee (if necessary, this fee can be waived). A temporary order can be placed in effect immediately which is good for up to 14 days. After a hearing the permanent order can be set for up to one year. Judges can also order the following conditions in the protection order:

- prohibit any future acts of domestic violence;
- order the respondent out of the shared residence or to stay away from the petitioner's place of residence;
- award temporary custody and establish temporary visitation of children;
- order the respondent to seek counseling; and
- order law enforcement agencies to enforce the provisions in the protection order and enter such information into a statewide computer system.

The statute also outlines procedures for service of notice of the hearing by law enforcement and establishes procedures for responding to violations of protection orders.

The criminal portion of the Domestic Violence Prevention Act established the mandatory arrest with probable cause policy. This provision is extended to both misdemeanor and felony offenses. It directs law enforcement to arrest if they have probable cause to believe a crime has been committed, even if there are no witnesses. The officer must also make an arrest if there has been a violation of a no contact order, a protection order, or a restraining order. This mandatory arrest with probable cause provision clearly established that assaulting a family or household member is a crime.

In 1985 amendments were made to the Domestic Violence Prevention Act. The most crucial of these changes clarified the mandatory arrest with probable cause provision by directing law enforcement to arrest only the primary aggressor. The primary aggressor is determined by the extent of the injuries or serious threats and the history of domestic violence. This change was made necessary by the fact that after passage of the mandatory arrest provision, officers were often arresting both parties when they responded to a domestic violence call. Limiting arrests to the primary aggressor re-established the original intent of the law which is to protect victims of domestic violence.

Washington State statute in RCW 26.50.010 defines domestic violence as:

Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or sexual assault of one family or household member by another. Family or household member means spouses, former spouses, adult persons related by blood or marriage, persons who are presently residing together, or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

RCW. 10.99.020 further defines domestic violence as including but not limited to any of the following crimes when committed by one family or household member against another:

- a) Assault in the first degree;
- b) Assault in the second degree;
- c) Assault in the third degree;
- d) Assault in the fourth degree;

- e) Reckless endangerment [in the second degree];
- f) Coercion;
- g) Burglary in the first degree;
- h) Burglary in the second degree;
- i) Criminal trespass in the first degree;
- j) Criminal trespass in the second degree;
- k) Malicious mischief in the first degree;
- l) Malicious mischief in the second degree;
- m) Malicious mischief in the third degree;
- n) Kidnapping in the first degree;
- o) Kidnapping in the second degree;
- p) Unlawful imprisonment;
- q) Violation of the provisions of a restraining order restraining the person or excluding the person from a residence;
- r) Violation of the provisions of a protection order restraining the person or excluding the person from a residence;
- s) Rape in the first degree; and
- t) Rape in the second degree.





# Background of the Washington State Domestic Violence Task Force

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In 1989 the Washington State Task Force on Gender and Justice in the Courts recommended the legislature establish a state commission or task force on domestic violence to implement its recommendations and other matters relating to domestic violence. In 1990 the legislature authorized \$100,000 of the public safety and education account to implement recommendations of the Task Force on Gender and Justice. Of that amount, \$45,000 was allotted to the Office of the Administrator for the Courts to create a task force on domestic violence. The task force was to undertake a study of domestic violence issues in the criminal justice system and make recommendations for reform.

Chief Justice Keith M. Callow appointed twenty-three individuals to the Domestic Violence Task Force with membership representative of the executive branch, the legislature, the justice system, law enforcement, victims' advocates, batterers' treatment providers, and interested citizens. Judge Laura Inveen, King County District Court, was appointed Chair. The Domestic Violence Task Force met at least monthly beginning in September 1990.

Domestic violence is rampant and influences all facets of our society. The response to this crime necessitates substantial careful consideration. Task Force members were determined to make recommendations that would be valuable to individuals within the criminal justice system who work with domestic violence. The Task Force also wanted to make systems more responsive to victims of domestic violence and to make those systems more accountable. In order to do so, the Task Force resolved to establish goals that could be completed within the time frame and budget constraints set by the legislature.

The Task Force identified three goals:

- 1) Evaluate criminal court issues in domestic violence cases;
- 2) Review specific recommendations of the Task Force on Gender and Justice in the Courts with respect to civil court issues in domestic violence; and
- 3) Study current status of services for domestic violence victims and interventions for offenders.

Once these goals were established, Task Force members were assigned to work groups. These work groups determined specific objectives. Task Force members then collected and reviewed information from a wide range of state and national resources. District courts, probation departments, city attorneys, and prosecutors were surveyed to determine the current response to domestic violence in jurisdictions throughout Washington State. Input was also gathered from the educational needs assessment completed by judges, commissioners, court administrators, county clerks, and prosecutors. (Weaver, et al., 1991.) The Task Force also relied on the expertise of its individual members. The recommendations are grounded in a clear and well documented understanding of domestic violence, its causes, the victims, and the perpetrators.

# Domestic Violence: A Coordinated, Comprehensive Community Response

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## Recommendations

- 1. Each county should establish a task force or commission to develop a comprehensive, community response to domestic violence. This group should consist of representatives from victims' advocacy groups, law enforcement, criminal and civil courts, prosecutors, probation, legal defense, batterers' treatment providers, and other concerned citizens.**

The realities of domestic violence make it clear that to effectively stop this epidemic, the response must be comprehensive and coordinated. As Washington State improved its laws against domestic violence and it was no longer hidden behind closed doors, the public has become aware of the magnitude of the problem. The systems that have been developed to respond to victims or perpetrators have been overwhelmed by the number of cases and the multiple needs. It has become apparent what is needed for effective intervention. No one or two parts of a community can stop domestic violence. Coordination of services and interventions is a must.

As the Task Force worked on this report it became apparent that there are particular issues facing individual counties that could not be addressed in statewide guidelines. The diversity of the counties is reflected in the diversity of issues facing each--urban, rural, suburban, availability of resources, cultural composition, employment patterns, etc. In order for an intervention plan to be effective it must be relevant to the citizens it is meant to serve. The guidelines discussed in this report need to be adapted to each county so the development and implementation of the plan can be community based.

Since a comprehensive plan is needed, there needs to be representatives from all parts of the intervention system. These representatives should be knowledgeable and committed to ending domestic violence. In addition to those groups listed in the recommendation, a county domestic violence task force or commission may also want to seek out membership from the religious, education, and media groups in the county. Stopping domestic violence involves community change and social institutions can be instrumental.

A county task force on domestic violence would review relevant materials, develop county guidelines for each part of the system, develop an implementation

plan as well as time lines. It could also research the resources available to address this problem.

In the future, a statewide commission or task force on domestic violence might be instrumental in providing technical assistance to the individual counties, as well as setting up a communication network for counties to share their problems and successes in implementing their plans. Furthermore, such a statewide commission could review the county plans in order to identify common issues that may need to be addressed by the legislature. (See additional items for future study.)

## Domestic Violence: Criminal Court Issues

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"Criminal justice professionals know that a vast number of homicides and aggravated assaults are committed by and against members of the same family. Yet many law enforcement personnel, prosecutors, judges, and others continue to treat initial reported family violence incidents as less serious than the same offense between non-family members." (Family Violence: Improving Court Practice, 1990.)

As our understanding of domestic violence has grown, it has become clear that domestic violence is a crime not only against individuals but also against the community as a whole and should be treated as such. The courts, law enforcement, prosecutors, and probation departments should work together to provide an integrated and coordinated criminal justice response to domestic violence in order to ensure the safety of victims and the community.

Any criminal justice response to domestic violence should aim to achieve the following goals:

- Stop the violence;
- Protect the victim, the children, and other family members;
- Protect the general public;
- Hold the batterer accountable for the violent behavior;
- Rehabilitate the batterer; and
- Uphold the legislative intent to treat domestic violence as a serious crime...  
(National Curriculum: *Domestic Violence: The Crucial Role of the Judge in Criminal Court*, 1991.)

With these goals as a guide, the Domestic Violence-Task Force reviewed and made recommendations regarding the following criminal court issues:

- Mandatory Arrest with Probable Cause Provision of the Domestic Violence Prevention Act
- Criminal Justice Response to Domestic Violence
  - Law Enforcement
  - Prosecutors
  - Courts
  - Probation
- Data Collection

## **Mandatory Arrest with Probable Cause Provision of the Domestic Violence Prevention Act**

### **Recommendations**

- 2. Continue the mandatory arrest with probable cause provision of the law.**
- 3. Given the high incidence as well as seriousness of domestic violence, the legislature should allocate adequate funding resources for a coordinated criminal justice response to include law enforcement, courts, prosecution, and probation.**

In 1979 the Washington State Legislature enacted RCW 10.99, the Domestic Violence Act (DVA). This Act recognized the historical bias against enforcing domestic violence as a crime and expressed the legislative intent that enforcement of the law should be the official response to cases of domestic violence. Despite the legislative mandate, problems continued to arise with enforcement of existing laws with respect to domestic violence. Arrests for misdemeanor crimes traditionally require observation of the offense by a law enforcement officer. Domestic violence is a crime which most often occurs behind closed doors and without corroborating witnesses. Even though RCW 10.99.030 allowed officers to arrest in misdemeanor domestic violence situations which occurred outside their presence if probable cause existed, arrests did not increase appreciably. The individual discretion of the officer tended to dictate whether an arrest would be made, a citation issued, or nothing done at all. Consequently, the traditional view that domestic violence is a private affair rather than a crime continued and few arrests were made.

In 1984 two additional pieces of state legislation passed which expanded-upon and emphasized the protection afforded under the DVA. The Domestic Violence Prevention Act (DVPA), RCW 26.50, created the civil order for protection and RCW 10.31 established the mandatory arrest with probable cause provision. The legislature enacted RCW 10.31 requiring arrest of the batterer if probable cause exists that an assault occurred within the preceding four hours. This provision was an attempt by the legislature to overcome law enforcement's traditional reluctance to arrest in cases of assaults involving adult intimates. Amendments in 1985 clarified and reiterated the intent of the DVA and the DVPA.

The intent of the legislature is clearly stated in RCW 10.99.010:

The purpose of this chapter is to recognize the importance of domestic violence as a serious crime against society and to assure the victim of domestic violence the maximum protection from abuse which the law and

those who enforce the law can provide. The legislature finds that the existing criminal statutes are adequate to provide protection for victims of domestic violence. However, previous societal attitudes have been reflected in policies and practices of law enforcement agencies and prosecutors which have resulted in differing treatment of crimes occurring between cohabitants and of the same crimes occurring between strangers. Only recently has public perception of the serious consequences of domestic violence to society and to the victims led to the recognition of the necessity for early intervention by law enforcement agencies. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior is not excused or tolerated. Furthermore, it is the intent of the legislature that criminal laws be enforced without regard to whether the persons involved are or were married, cohabiting, or involved in a relationship.

Is the current mandatory arrest with probable cause law in Washington State effective?

Given the lack of statewide data on arrests in domestic violence cases in Washington State, it is difficult to answer this question conclusively. There is, however, some empirical evidence and much presumptive evidence which leads to the conclusion that the law as it now exists is vastly superior to the law which existed prior. In measuring the effectiveness of this provision, we must address each of the following:

- Increasing society's views that domestic violence is a serious crime against society;
- Assuring the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide;
- Changing the policies and practices of law enforcement agencies (and prosecutors) which resulted in differing treatment for crimes occurring between cohabitants and for the same crimes occurring between strangers; and
- Increasing enforcement of the laws without regard to whether the persons involved are or were married, cohabiting, or involved in a relationship.

While there is not systematic data from all jurisdictions in the state, there are statistics from some that indicate that the mandatory arrest with probable cause provision has resulted in increased arrests for these crimes. The Family Violence

Project with the Seattle City Attorney's Office reported that after passage of the mandatory arrest law:

The number of arrests increased by more than a factor of four, the number of cases reported increased by more than half, and both the number of cases set for trial and successful prosecutions increased by 300 percent. (Goolkasian, 1986.)

In 1983 prior to passage of the mandatory arrest law the Seattle Police Department made 387 arrests for domestic violence. Since passage, arrests have hovered near 2,400 each year. Other jurisdictions have experienced similar increases. Such arrest statistics indicate that the provision has been very successful in overcoming law enforcement's reluctance-to arrest in-such-cases:

Despite initial resistance, police departments are generally accepting of the domestic violence laws. Some implementation problems arose after the law passed primarily because training on the law was inadequate. The Domestic Violence Act mandated training for law enforcement but, to date, the only formalized curriculum is for new police recruits through the Washington Criminal Justice Commission Training Academy. Law enforcement trainees receive five hours of domestic violence training in addition to instruction in human relations, victimology, and abuse. In its 1989 report, the Washington State Task Force on Gender and Justice recommended increased training for law enforcement. As a result of inadequate training, patrol officers are sometimes unclear on domestic violence policies and procedures. Personal communications between various Task Force members and law enforcement personnel confirms that a training forum for refreshing their skills and knowledge is something both desired by the officers and necessary for effective intervention. (See law enforcement section, recommendation #4.)

A second problem in implementation has been lack of resources to respond to the epidemic volume of domestic violence cases. Providing appropriate law enforcement and prosecutory response is a strain on community budgets due to the overwhelming number of cases. There may be a temptation to solve this budgetary problem by dropping the mandatory arrest with probable cause provision. This would not solve the domestic violence problem, it would merely make it hidden once again.

Using arrest for crimes of domestic violence has the same benefits as the utilization of arrest for other crimes. Arrest is known to:

- Prevent further criminal behaviors;
- Prevent further injury to the victim;



- Demonstrate to the offender that he (or she) will face legal consequences;
- Demonstrate to the victim, the offender, and the community that domestic violence is criminal behavior; and
- Increase the number of offenders subject to prosecution, court supervision, treatment, and other community intervention. (Goolkasian, 1986.)

It is important to note that arrest alone will not stop domestic violence. For some batterers, arrest may be an effective deterrent. For others, it is the arrest combined with prosecution, sentencing, incarceration, counseling, and monitoring by probation that brings about change: Mandatory arrest with probable cause is not the solution; it is however, a crucial element in an overall, community-wide response to domestic violence.

The Domestic Violence Task Force recognizes that mandatory arrest with probable cause not only prevents further violence and injury in individual situations, but in extreme situations saves lives of victims, their children, and community members. Furthermore, such arrests will bring perpetrators of domestic violence into the criminal justice system and will often start them on the road to rehabilitation.

### **Criminal Justice Response to Domestic Violence**

With the recognition that domestic violence is a serious crime has come the understanding that the criminal justice system is crucial in stopping the violence and ensuring safety of victims and the community. In order for any criminal justice response to be forceful, all parts of that system must function in a coordinated manner. Law enforcement, prosecutors' departments, courts, and probation departments must have policies and procedures for responding effectively to domestic violence cases. If any part of the response team is absent or lacking, the entire effort aimed at ending the violence can be rendered ineffective. In fact, system failure can actually escalate the violence by reinforcing the beliefs held by perpetrators that they can control others through domestic violence.

The following guidelines for criminal domestic violence cases were adopted in part from several sources including The National Council of Juvenile and Family Court Judges, *Family Violence: Improving Court Practice*; The Task Force on Gender and Justice, Subcommittee on the Consequences of Violence: Domestic Violence and Rape: *Final Report*; *The Denver Domestic Violence Manual*; *Confronting Domestic Violence: The Role of Criminal Court Judges*, Goolkasian, 1986; *The*

*Domestic Violence Intervention Committee Report; Criminal Justice Response to Domestic Assault Cases: A Guide for Policy Development*, Domestic Abuse Intervention Project, Duluth; and the National Convention on Domestic Violence: *The Crucial Role of the Judge in Criminal Court*.

The Task Force reviewed the options available to law enforcement, prosecutors, courts, and probation units. The purpose of these guidelines is to offer recommendations that these agencies can apply in a coordinated and effective response to criminal domestic violence cases.

## **Law Enforcement**

### **Recommendations**

- 4. Law enforcement should have continuing education for all personnel, including supervisors, on the law, departmental policies, and the dynamics of domestic violence.**
  
- 5. Law enforcement agencies should develop written policies and procedures for responding to domestic violence. These policies and procedures should address:**
  - \* Response priority;**
  
  - \* Arrest decisions;**
  
  - \* Evidence gathering and witness statements (including children); and**
  
  - \* Victim services and referrals.**
  
- 6. Law enforcement should establish policies and procedures that provide for swift service of protection orders and establish service as a high priority within the department.**
  
- 7. Law enforcement should establish procedures to mark and track domestic violence cases for appropriate case processing. (See the section on data collection.)**

Law enforcement is often the first contact victims and perpetrators in domestic violence cases have with the criminal justice system. As such it is important that

police have a clear understanding of the dynamics of domestic violence and a clear understanding of the appropriate law enforcement response. Under the provisions of the mandatory arrest with probable cause law, law enforcement must make an arrest of the primary aggressor if probable cause exists. The officer must also inform the victim of her or his right to initiate a criminal proceeding, and inform the victim of shelter or other services in the community. The officer may arrange transportation for the victim to a shelter or a medical facility. The law enforcement agency must forward the offense report to the appropriate prosecutor within ten days of the offense. The agency must also keep records that identify the report as domestic violence.

Ongoing training for law enforcement professionals is essential if they are to respond effectively in domestic violence situations: -Such training should cover information specific to domestic violence issues, as well as to the specific tasks of police in those cases: the domestic violence law; making referrals; stopping the violence; safety of the victim and the public; officer safety; evidence gathering; and interviewing victims, child witnesses, and other witnesses.

## **Prosecutors**

### **Recommendations**

- 8. Prosecutors should have continuing education on domestic violence issues, domestic violence case preparation, evidentiary problems, and sensitivity in dealing with domestic violence victims.**
- 9. Diversion should not be used in domestic violence cases.**
- 10. Prosecution is the preferred response to criminal domestic violence cases. Prosecutors should employ policies and procedures utilizing the guidelines outlined in this report for dismissing, charging, and trying cases.**
- 11. If an alternative to prosecution is used, then a Stipulated Order of Continuance program as outlined in this report should be employed. (See Stipulated Order of Continuance guidelines on page 28.)**
- 12. Deferred prosecution is not recommended in domestic violence cases.**
- 13. Prosecutors should develop written filing standards for misdemeanor and felony domestic violence cases.**

Historically, prosecutors have been reluctant to prosecute domestic violence cases. There are a variety of reasons for this including evidentiary problems, lack of witnesses, lack of documentation of prior incidents, lack of meaningful sentences even if convictions were obtained, victims' reluctance to cooperate, and myths about domestic violence. There are concrete steps that can and should be taken by prosecutors to overcome these problems. With special expertise, domestic violence cases can be successfully prosecuted.

Prosecutors should work with victims and keep them informed regarding the progress of their case. However, decisions involving prosecuting cases should remain with the prosecuting attorney. While many victims when informed about the criminal justice process follow through; others may appear ambivalent or reluctant. In domestic violence cases, the victim is often afraid and is pressured or coerced by the offender. Developing strong pro-prosecution policies and procedures often can lessen the amount of control batterers have over victims in the courts and reduce some victim's reluctance to participate.

#### Prosecutorial Options/Dispositional Alternatives

The Task Force solicited input from district courts, probation departments, county prosecutors, and municipal attorneys to determine their current responses to criminal domestic violence cases. Survey results showed that jurisdictions are using various dispositional alternatives, some with few or no written guidelines. Since domestic violence is a serious crime, it is the view of the Task Force that vigorous prosecution is the most appropriate criminal justice response. If communities are to use any alternatives to prosecution, they should follow the guidelines outlined below to ensure goals are achieved. These alternatives should be used only for cases meeting the specific criteria listed in this report.

Too often the underlying rationale for recommending alternatives to prosecution for domestic violence is either: 1) domestic violence is supposedly not a "real" crime, or 2) that the alternatives will be effective interventions at low costs. The intent of the Washington law (and experience confirms) is that not only is domestic violence a real crime, it results in profound damage to the victims and the community. Furthermore, alternatives to prosecution do not save dollars. Communities that do not have adequate resources should not develop alternatives to prosecution since even these alternatives require resources. Such alternatives used responsibly will incur costs, if not to the prosecutor's office, then to another part of the criminal justice system. These costs arise from the need for increased case processing and monitoring as well as the need for interventions for batterers and services for victims.

The Task Force offers recommendations for the following prosecutorial options/dispositional alternatives which are currently being used in Washington State.

A) Diversion

Diversion: arrest is made or a police report is received by the prosecutors' office, but no charges are filed at that time. The prosecutor enters into an agreement with the suspect to comply with certain conditions. Upon successful completion of those conditions, no charges will be filed.

The Task Force finds there are several problems in using diversion as defined above. Diversion programs convey to the offender, the victim, the community, and law enforcement that no crime was committed. Diversion goes against the spirit of the domestic violence law which states that domestic violence should be treated as a serious crime. In cases where diversion is meant to facilitate treatment for batterers, it has the opposite effect and too often it is set up without the necessary monitoring systems to hold batterers accountable and to provide for follow through.

The United States Civil Rights Commission, after examining jurisdictions that diverted cases and those that did not, concluded that treatment or counseling mandated as a condition of probation is more effective and is taken more seriously by offenders than pre-trial diversion that requires the same treatment. (Spousal Assault, 1989.) Effective treatment for batterers is made difficult if diversion is used since success of the treatment depends on batterers accepting responsibility for their violent behavior and being held accountable for changing their behavior. In diversion with no charges being filed, batterers are not confronted with the reality that their behavior is criminal. Additionally, there is no authority existing in Washington State law that supports the use of diversion. The Task Force does not support diversion in domestic violence cases.

B) Dismissal of Charges

Dismissals: charges are filed, but upon a court order, the charges are terminated.

To avoid inappropriate dismissals, decisions to dismiss should be made only where evidentiary problems have developed which preclude the possibility of proving all elements of the crime. Having a reluctant witness

or victim cannot be the sole basis for dismissing a case. The obstacle of reluctant witnesses can often be overcome with referral to domestic violence victims' advocates, timely processing of cases, appropriate case preparation, and appropriate procedures.

If a victim contacts the prosecuting attorney's office prior to the time the matter is set for trial and asks that "charges be dropped," the following procedure should be followed:

The victim should be referred to a domestic violence legal advocate who will meet with the victim. The advocate should explain that authority to request dismissal is vested with the prosecuting attorney's office, and the advocate should offer support and information to the victim. This procedure should be handled by the prosecuting attorney in counties where neither court based nor community based domestic violence legal advocates exist.

C) Prosecution

Prosecution: charges are filed, criminal proceedings are instituted and are carried on by due course of law before an appropriate court for the purpose of determining the guilt or innocence of the person charged with the crime.

The Domestic Violence Task Force recommends prosecution as the preferred response to criminal domestic violence cases. Vigorous prosecution most closely adheres to the spirit of the Domestic Violence Prevention Act. Prosecution of batterers conveys the message that domestic violence is a serious crime for which offenders must be held accountable. The ultimate outcome of batterers being held accountable through prosecution is reduction of recidivism.

1) Charging

Whenever possible, a guilty plea to the most specific charge is preferable, rather than a lesser charge which may not adequately represent the nature of the offense.

Written filing standards should be developed in each jurisdiction for misdemeanor and felony domestic violence cases. Standards can serve as an important baseline for determining the level of intervention. They are also useful in discussing the processing of the case with both the offender and the victim.

If a factual basis exists and there is a reasonable likelihood of conviction, a charge should be filed.

If a victim requests no charges be filed, the wishes of the victim may be considered, but the final decision must rest with the prosecutor.

A prosecution should not be declined simply because the victim has not followed through in the past or does not desire to follow through in the present case.

## 2) Trials

In domestic violence cases it is necessary to set trials quickly in order to circumvent the batterers' controlling behavior. Victims are often more willing to cooperate immediately after the incident-before the batterer regains control over them. Additionally, victims who are informed of the process and have an identified contact person within the prosecutor's office are more likely to follow through. Domestic violence cases should be highlighted to allow for identification in implementing these special procedures. Below are suggested guidelines for prosecuting domestic violence cases that proceed to trial.

In the event there is not a guilty plea, cases should be set for trial in a timely manner and assigned to a domestic violence unit (if available) using the following procedures:

- a) Agreement to continue arraignment should not be longer than two weeks. If the case is not resolved at one of the two court appearances, the case should be set for trial.
- b) Once the trial is set, the case file should be immediately assigned to a designated prosecuting attorney.
- c) File records should be designated as domestic violence cases regardless of charges filed.
- d) The assigned deputy should review the file and refer the case to a domestic violence legal advocate (if available) whenever appropriate.
- e) The assigned deputy and the assigned victim advocate should make coordinated efforts to personally contact the victim before the date of the trial.

- f) Victims and witnesses should be subpoenaed at the earliest possible time.
- g) Victims of domestic violence should always be personally served with subpoenas. This ensures they have personal knowledge of the subpoena.
- h) Strong objections should be made to any continuance motions made without good cause.

### 3) Sentencing

Upon conviction and where legally available, formal probation with jail time and batterers' **treatment** should be recommended.. The recommended jail time should be commensurate with sentences for other violent crimes and should increase in severity with multiple domestic violence convictions. Whenever appropriate, no contact orders, alcohol or drug treatment programs, and restitution should be a condition of probation.

#### D) Stipulated Order of Continuance (S.O.C.)

Stipulated Order of Continuance: charges are filed, but no finding is entered. An **agreement** establishing conditions is made between the defendant and the prosecutor which must be approved by the court. After successful completion of these conditions, the case is dismissed.

In some misdemeanor domestic violence cases an S.O.C. may be appropriate. Stipulated Order of Continuance programs allow for continued control of the offender and will assist the perpetrator in stopping the violence in certain types of cases (see the following criteria). The success of these programs is based on having appropriate eligibility, appropriate treatment ordered and available, and the offender's compliance monitored. Offenders should be ordered to attend treatment specifically designed for battering behavior. The experience of practitioners in the field has shown that generic counseling or even "anger management"



is not adequate. Domestic violence is the result of multiple factors that must be specifically **addressed** if the pattern is to be eliminated. Effective batterers' interventions are described in more detail in the final section of this report.

Stipulated Orders of Continuance may also offer a faster resolution tool than trials for certain **types** of cases. For perpetrators who acknowledge their abusiveness, some S.O.C. programs can expedite their being in treatment faster than if they go to trial. A drawback of any S.O.C. program that does not require stipulation to police reports is that if a trial is needed due to failure to comply, the passage of time could make case preparation more difficult.

The following guidelines for eligibility are necessary to ensure that only individuals who **have** a likelihood of success are in S.O.C. programs. In order to ensure the safety of the victim and the community, offenders who have committed serious domestic violence crimes should not be ordered to an S.O.C. Offenders who have committed multiple crimes should not be in S.O.C. programs since they show complete disregard for rules and regulations and are unlikely to conform to the requirements of the program. Offenders who do not acknowledge responsibility for their abusive behavior are also unlikely to benefit from a treatment program. For batterers who do not meet these minimum eligibility requirements, the greater control of full prosecution and sentencing by the court is necessary to protect their victims and the public and to facilitate their rehabilitation. Full prosecution and sentencing confronts their minimization and denial, and holds them accountable for their domestic violence and for changing their behavior.

#### Stipulated Order of Continuance Eligibility Requirements,

- No prior convictions for crimes of violence within seven years.
- No prior convictions for domestic violence crimes within seven years.
- Current offense is not a felony.
- Current offense is not a crime against a child. No use of weapons in current offense.
- Current offense did not result in injuries that required medical treatment.

- No prior failure of a domestic violence S.O.C. or other type program, or failure of deferred prosecution under RCW 10.05.
- Current offense is not a violation of an existing domestic violence protection order, a no contact order, or a restraining order, and one does not exist at the time of the offense.
- No prior juvenile violent crime convictions occurring when the offender was 16 or 17.
- Offender is not classified as a serious habitual offender.

The following procedures for implementing a Stipulated Order of Continuance are recommended so that the S.O.C. will be most effective in stopping the battering behavior and ensuring the safety of the victim and the community. It is important to provide due process and constitutional guarantees to individuals entering into S.O.C. programs. However, it is also important to safeguard the admissability of the facts should the batterer fail to comply and a trial become necessary after passage of time. Requirements for monitoring and reporting assure that the offender is following through with conditions of the S.O.C. and also ensures that the batterers' treatment program is being held accountable. When prosecutors and judges solicit input from the victims they may be able to gain valuable information such as the offender's prior convictions in another jurisdiction or state. Requiring batterers' to pay court costs is crucial to the treatment process because doing so holds batterers accountable for their behavior. Finally, batterers should stay within the control of the S.O.C. program for two years because that is the length of time necessary for behavioral change to occur (although they may not be in specialized treatment the entire time).

#### Stipulated Order of Continuance Procedures

- Offender should be advised that the court will not accept an S.O.C. from a person who sincerely believes he or she is innocent of the charges.
- Offender should be advised of the right to an attorney or to a court appointed attorney if he or she is indigent.
- Offender must stipulate to the admissability of the facts in the written police report to be used upon revocation.

- Offender should waive the right to a speedy trial.
- As appropriate, a no contact order should be signed. Prosecutors and judges should consider input of the victim.
- Prosecutors and defendants must agree to the S.O.C. subject to approval by the court.
- All hearings should be expedited. An S.O.C. agreement should be entered into within two weeks from the date of the offense, but in no event later than 90 days from the date of the offense.
- Offender compliance should be monitored by probation, the court, or a designated representative of the court.
- Require offender pay restitution, court costs, and probation costs. The duration of S.O.C. should be two years.
- Offender must attend and successfully complete an approved specialized batterers' treatment program. (See appendix A for recommended standards for batterers' treatment providers and programs.)
- When indicated, a concurrent substance abuse evaluation should be ordered.
- Batterers' treatment programs and additional programs should provide monthly reports to the designated court monitor.

#### Stipulated Order of Continuance Revocations

- The S.O.C. must be revoked if the offender commits any domestic violence related offenses.
- The S.O.C. may be revoked if the offender violates any of the terms or conditions of the program including but not limited to domestic violence offenses which have not reached convictions.

#### E) Deferred Prosecution

Charges are filed, but after arraignment the offender can request

deferred prosecution pursuant to RCW 10.05 if wrongful conduct is the result of or caused by alcoholism, drug addiction, or mental problems. After successful completion of the terms and conditions of the order, the case is dismissed.

Deferred prosecution should not be used in domestic violence cases. Experts who work with batterers state that alcohol and drugs do not cause battering behavior, but only exacerbate it. There may be instances where mental illness could lead to battering in which case a deferred prosecution could be utilized upon proper diagnosis. The guidelines outlined above for Stipulated Order of Continuance should be used for deferred prosecutions.

## **Courts**

### **Recommendations**

**14. Judges and court personnel should have continuing education on domestic violence; victims; perpetrators; domestic violence statutes; criminal case issues; civil court issues; protection orders, no contact orders, and restraining orders; and policies and procedures for domestic violence cases.**

**15. Courts should adopt the guidelines outlined in this report for processing domestic violence cases.**

Courts are unique and vital institutions in our society. They are one of the major vehicles our communities have for saying that domestic violence will not be tolerated. It is imperative that judges provide leadership to ensure a swift and equitable response which reflects that domestic violence is a serious crime. The United States Attorney General's Task Force on Family Violence noted that, "Even a stern admonition from the bench can help to deter the defendant from future violence."

It is also imperative that judges and other court personnel who work with domestic violence victims and offenders have information and education about domestic violence issues in order to process these cases efficiently and sensitively. Understanding domestic violence also reduces frustration for court personnel who work directly with victims and offenders in complex and often emotionally charged proceedings. The recommendations and guidelines listed below are important to ensure the safety of both victims and court personnel and to facilitate efficient handling of domestic violence cases.

The Domestic Violence Task Force identified several major areas where courts can improve the processing of domestic violence cases.

A. Court Administration

Appoint a domestic violence coordinator to handle calls from victims, to respond to requests for protection and other orders, and to coordinate with law enforcement agencies and jails.

Ensure that victims receive information about domestic violence support organizations when they request protection and other orders (brochures about such organizations should be included in the protection order packet).

To ensure the safety of the victim and court personnel, courts should establish policies and procedures to expeditiously handle cases. These should include, but not be limited to, courtroom security, separate dockets, accelerated trials, and revocation hearings.

B. Bail in Misdemeanor Cases

In domestic violence cases, unlike other assaults, defendants are most likely to have ongoing access to the victim. In order to provide for the safety of the victim and the public, defendants who desire to post bail prior to arraignment and after arrest should be required to post a minimum \$1,000 cash or surety bond and meet any and all specified conditions of release. No contact orders should be signed as a condition of release. As authorized in RCW 10.99.040(2), weapons may also be required to be surrendered.

C. Arraignment and Pre-trial Release

Defendants should not be permitted to waive arraignments in domestic violence cases so that judges have the ability to set appropriate conditions of release.

No contact orders should be issued whenever possible.. Such orders should specify that the defendant should have no contact directly, indirectly, or through third parties with the victim. Defendants should be reminded that the no contact order is a directive from the court and cannot be nullified by the victim.

D. Dispositional Alternatives/Options in Misdemeanor Cases

Judges have the following options available in processing misdemeanor domestic violence cases:

### 1) Dismissal

Upon an appropriate motion or hearing with adequate factual or legal basis, the judge may authorize the case be dismissed. Specific inquiry should be made as to the legal or factual basis of the motion. Cases should not be dismissed solely on basis of the victim's reluctance to testify.

### 2) Authorize a Stipulated Order of Continuance

Authorization of an S.O.C. should be contingent upon meeting the guidelines outlined previously in the prosecutor section of this report.

### 3) Deferred Prosecution

If no Stipulated Order of Continuance program exists and deferred prosecution is recommended, the guidelines listed above for S.O.C. programs are also recommended for deferred prosecution programs.

### 4) Sentence Upon Conviction

Sentences "should be aimed at holding offenders accountable, ending abusive behavior, and meeting the needs of victims and other family members" (Goolkasian, 1986.) Sentences should increase in severity of crimes, as well as with subsequent domestic violence violations. Jail, fines, and restitution may be employed.

### 5) Deferred Sentences

Charges are filed. After conviction or guilty plea, offenders may avoid the conviction remaining on their record by successfully meeting sentencing conditions and requesting a court order of dismissal. Deferred sentences should be limited to offenders with no prior criminal history.

### 6) Suspended Sentence

The court may order a sentence of a convicted offender be stayed and suspended and that person be placed under the charge of a probation officer. The offender can be required to meet certain conditions including payment of penalties, restitution, and fines. The offender may also be required to attend treatment.

If cases are suspended or deferred, defendants should be required to attend and complete a treatment program specially designed for batterers. Likewise, if cases are suspended or deferred, probation supervision should be ordered when a sentence is imposed to monitor compliance. An increase in the number of probation officers may need to be requested to accomplish this goal. Probation is a crucial step in rehabilitating perpetrators. (See probation section.)

#### E. Dispositional Alternatives/Options in Felony Cases

In 1989 the legislature enacted the Sentencing Reform Act which established a system for sentencing all felony offenders based upon the seriousness of the offense and the-offender's prior criminal history.. The Act abolished suspended and deferred sentences and removed much of the sentencing judge's discretion. Instead, a judge must impose a sentence within a sentence range established pursuant to the Act, unless "there are substantial and compelling reasons justifying an exceptional sentence," RCW 9.94A.120.

Probation is replaced by community suspension, during which an offender is subject to crime-related prohibitions and other sentence conditions. The requirement to participate in treatment and other rehabilitative programs is a legal option only in certain types of cases.

Due to time constraints and the technicalities of the Sentencing Reform Act, an analysis of sentencing options of felony domestic violence offenses was determined to be beyond the scope of this report.

## **Probation**

### **Recommendations**

**16. All jurisdictions should have probation units. Those jurisdictions without resources should appoint a designated court officer qualified to perform probation functions.**

**17. Probation departments should adopt policies and procedures utilizing the guidelines outlined in this report for processing domestic violence cases.**

The role of probation departments is critical to an effective criminal justice system response to domestic violence. Fulfilling this role assists the court in determining appropriate consequences for the crime and enhances the court's ability to protect the victim and the community. It requires knowledge of the dynamics of domestic violence, coordination with criminal justice system agencies and community services, and formal policies and procedures to promote consistency in response.

Supervision of domestic violence perpetrators presents a special challenge for probation departments. Batterers share most of the characteristics of high-risk chronic offenders. The National Council of Juvenile and Family Court Judges recommended that probation departments classify batterers in the maximum supervision category and monitor them-intensively: "According to standard criteria such as history of criminal behavior, violence, alcohol or drug involvement, denial, access to potential victims, and presence of triggering stimuli, batterers actually fit the profile of high-risk offenders in need of maximum supervision." (Families in Court, 1989.) Given the importance of the probation department's input to the court and the increased likelihood of recidivism, probation departments must aggressively supervise perpetrators in fulfilling their responsibilities successfully. Experts in treatment agree that probation is central to the rehabilitation of batterers. Furthermore, treatment providers cannot be effective court monitors although they should report problems or progress to probation.

The Task Force recommends that all jurisdictions in Washington have probation units. The Task Force also recommends that all jurisdictions which do not have probation units appoint a designated court officer qualified to perform probation functions. When requested by the court, probation officers or other qualified personnel are responsible for preparing pre-sentence reports, making sentencing recommendations, and most importantly monitoring the batterer's compliance with the conditions of probation. In some jurisdictions, they may also be requested to prepare pre-trial release recommendations. The following guidelines for probation are from *Criminal Justice Response for Assault Cases: A Guide for Policy Development (1986)*. The Task Force recommends their adoption.

A) Pre-sentence and/or Pre-trial Release Investigation

- 1) The probation officers should make a reasonable effort to contact the victim or the victim advocate in order to:
  - a) Explain the role of probation to the victim and explain how she or he can have input into the process.



- b) Inform the victim of the sentencing options and/or release conditions available to the court.
  - c) Obtain a statement from the victim.
  - d) Discuss the need for conditions of probation or release which will provide for the ongoing safety of the victim.
  - e) Obtain information from the victim regarding any aggravating circumstances including frequency of abuse, history of past abuse, the absence of physical abuse in cases other than assault cases, other acts of abusive or threatening behaviors committed by the abuser, and whether the victim was-pregnant at the time of the abuse.
  - f) Inform the victim of services available in the community.
- 2) The probation officer should make a reasonable attempt to contact human service providers and court personnel believed to have information regarding aggravating circumstances.
- 3) The presence of aggravating circumstances should be fully documented and presented to the court verbally or in writing at the time of pre-trial release or sentencing. Aggravating circumstances include, but are not limited to:
- a) Serious bodily injury or threat to any adult or minor in the household.
  - b) Forced sexual contact or threat to any adult or minor in the household or any prohibited intrafamilial sexual conduct.
  - c) Use or threat with a deadly weapon.
  - d) Verifiable history of physical abuse by the offender to the victim.
  - e) Ongoing harassment of the victim by phone, mail, or in person by the abuser.
  - f) Presence of children when the violence is occurring.

B) Sentencing Recommendations Following Convictions for Misdemeanor Offenses Related to Domestic Assault

In making recommendations to the court for sentencing, the probation officer should recommend that jail and fines should increase in severity with the increase in number of convictions. The probation officer should consider the appropriateness of the following conditions in making sentencing recommendations.

- 1) Restrain offender from harassment, molestation, threats, or use of violence against the victim.
- 2) Enter into, cooperate with, and successfully complete batterers' treatment.
- 3) No further violations of any criminal statutes or ordinances.
- 4) Payment of any fees, fines, and costs in a timely manner.
- 5) Confiscation of weapons.
- 6) Other provisions deemed just and appropriate for the protection of the victim and society, and to further promote the efficient administration of justice.
  - a) No use of alcohol or other mood altering drug and assessment for chemical dependency or alcohol abuse.
  - b) Enter into and completion of a chemical dependency program.
  - c) Enter into and completion of a child abuse program.
  - d) Restricted or no contact with the victim.
  - e) Community service.
  - f) Payment of restitution and counseling costs for victims.
  - g) Work release.

### C) The Probation/Pre-Trial Release Agreement

Probation/Pre-trial release agreements should be specific, fully explained to the suspect, and signed by the suspect. Copies should be forwarded to all interested parties including the victim.

Copies of the agreement should be immediately mailed or forwarded to any person or agency specifically mentioned in the agreement.

The agreement should be specific in regard to expectations of the offender, placing the responsibility of arranging for counseling, payment of fees, and reporting to the probation officer with the offender.

The probation officer should fully explain each court condition and the penalties for noncompliance prior to obtaining the offender's signature.

### D) Monitoring Conditions of Probation and Pre Trial Release

In order to monitor cases involving court mandated counseling (e.g., batterers' treatment, chemical dependency, Parent's Anonymous), the probation officer should set up a regular reporting process with the counseling agencies as a part of the probation or pre-trial release agreement.

The probation officer should contact victims by phone or letter at least every 90 days to encourage reporting of noncompliance with provisions of the agreement related to nonharassment, restricted contact, threats toward victim, or additional offenses.

Failure to comply with the pre-trial release or probation order should result in the probation officer immediately (rather than waiting for a regularly scheduled hearing) initiating a revocation hearing or a review hearing on the offender's probationary or supervised release status according to the rules of court. Deviations from this practice should be documented in writing and reviewed by the probation officer's supervisor.

Victim involvement in procedures used in the pre-sentence investigation should also apply in preparing a report for hearings related to revocation or review of probationary or supervised release status.

The existence of pending charges on the offender for an offense which involves a revocation of probation should not prohibit the probation officer from pursuing a revocation of probation hearing in these matters. The probation officer should consult with the prosecuting attorney to coordinate each case.

## Data Collection

### Recommendations

18. **The legislature should amend RCW 10.99.030 to require centralized, statewide, law enforcement data collection and identification of all incidents of domestic violence.**
19. **The legislature should explore the use and funding of Incident Based Reporting as a replacement for the voluntary Uniform Crime Reporting system currently being used by law enforcement agencies.**

RCW 10.99.030 requires each law enforcement agency in the state to maintain records of all incidents of domestic violence reported to it, and to identify incidents of domestic violence via a departmental code. What the statute does not require is departmental reporting of domestic violence incidents to a centralized location in the state such as the Washington Association of Sheriffs and Police Chiefs (WASPC). What this means is that valuable information regarding the reported incidents of domestic violence in the state of Washington is unobtainable without a department by department search of the records. Reliable data collection is an important element in gauging the level of domestic violence in the community. Based on this information, policy makers, funders, and service providers are in a better position to advocate for the resources necessary to address the issue.

The FBI Uniform Crime Reporting (UCR) system is a voluntary information gathering system for compiling national crime data. It is estimated that 90 percent of local law enforcement agencies in Washington State report UCR statistics to WASPC. The data collection/incident report forms currently in use for UCR vary from jurisdiction to jurisdiction. In most cases, only general information is gathered regarding a reported incident, and much important data is not collected at all. UCR data collection records only the "highest level" crime committed in an individual incident where, in reality, a number of crimes may have been committed.

A new system, Incident Based Reporting (IBR) is currently being tested in eight pilot jurisdictions around the state. This new system standardizes the forms being used to report incidents. It also gathers information on all the crimes committed in a given incident, ensuring that domestic violence would be reported in the context of the crime committed. For example, if a homicide was reported and the individuals involved were "household members," the incident would also be recorded as domestic violence.

## Domestic Violence: Civil Court Issues

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The 1984 Washington State Domestic Violence Prevention Act provides for civil court proceedings in responding to domestic violence. In particular, the law establishes orders for protection which grant civil relief to victims of domestic violence. Under the provisions of this statute a person may file a petition with a court that alleges that she or he has been a victim of domestic violence committed by a named respondent. The petition can request either an *ex parte* temporary order for protection or a full order for protection (up to one year). A request for a temporary order must allege that the person has been a victim of domestic violence committed by the respondent and that "irreparable injury" could result if an order is not issued immediately and without prior notice to the respondent. The effective period of a temporary order cannot exceed 14 days from the date of issuance. The request for an order of protection for a period of one year requires notice to the respondent and hearing before the court. The petition forms can be filled out *pro se* (without legal counsel) and the filing fee can be waived if petitioners are unable to pay.

A judge can order one or more of the following as part of the order of protection: prohibit any further acts of violence; order the abuser out of the shared residence or to stay away from the victim's residence and place of employment; award temporary custody and establish visitation of any minor children; order the abuser to participate in batterers' treatment; and order law enforcement to enforce the provisions of the order and enter the order into a statewide computer system.

While the protection order process can be a valuable tool for increasing the safety of victims and for holding batterers accountable for their behavior, specific problems have become evident. The Task Force offers several recommendations to strengthen the civil court response to domestic violence in the following:

- Domestic Violence Protection Orders
- Sanctions for Violations of Protection Orders
- Mutual Domestic Violence Protection Orders Civil
- Domestic Violence Cases: Jurisdiction

## Domestic Violence Protection Orders

### **Recommendations**

- 20. The legislature should amend RCW 26.50.035, development of forms and instructional brochures, to require the administrator for the courts to prepare simplified mandatory forms and instructions for protection order petitions and orders. Include within the packet of standardized, simplified forms, an information sheet to assist petitioners in completing the protection order application.**
- 21. Each court and clerk's office in the state should have a simple brochure that describes the protection order, the no contact order, the restraining order, and the anti harassment order. The brochure should explain the process to obtain these orders and contain a list of local community resources.**
- 22. The simplified forms, instructions, and brochures should be accessible to non- or limited-English speaking populations.**
- 23. A clerk's handbook on domestic violence and the protection order process should be prepared and distributed to court clerks statewide.**

An important feature of protection order statutes nationwide is to make the process simple so that victims do not need to hire a lawyer in order to get legal protection. Due to the lethality of the violence, protection order statutes are designed to provide easy, quick access to the court system in order to gain immediate relief. However, it appears that the "simplicity of the process" concept has been lost and, as a result, victims are often discouraged from even attempting the process.

The Washington State Task Force on Gender and Justice in the Courts reported that nearly one third of the service providers it contacted indicated that victims "usually" or "frequently" had difficulty completing the paperwork required to petition for protection orders. The Gender and Justice Task Force also found that the petition forms throughout the state are often lengthy and complex. The paperwork is cumbersome for victims who are literate and capable of filling out forms, but it is impossible for victims who are illiterate or for whom English is a second language. It recommended that the Office of the Administrator for the Courts (OAC) develop simplified, standardized forms for protection orders and petitions to be used statewide. (Final Report, 1989.)

The existing statute directs the OAC to prepare model or advisory protection order forms, not mandated forms. Consequently, local jurisdictions have modified

the forms to suit individual interpretations. Many are cumbersome to petitioners, the court, and law enforcement. The language in many modified forms is inconsistent with statutory language. This inconsistency results in relief being ordered that is not provided in the statute, and some mandatory relief not being ordered because the form has been modified. This is particularly important in violation actions where specific "restraint" language, such as excluding the respondent from the petitioner's residence, invokes the mandatory arrest with probable cause provision. Also, there is a great deal of confusion about the differences among orders of protection, no contact orders, anti harassment orders, and restraining orders.

Creation of mandatory statewide forms is not prohibited and such forms are being used for other actions. For example, beginning in January 1992 mandatory forms in domestic relations cases will be in use statewide. A statutory amendment to the Domestic Violence Prevention Act could require that uniform, simplified forms and instructions be used across the state.

Additionally, uniform, simplified forms would not only benefit individual victims but also those responsible for implementing the law. Law enforcement agencies are charged with serving and enforcing protection orders, irrespective of the jurisdiction from which they were issued. Different protection order forms often create confusion about contents and enforceability. Enforcement and interpretation of orders would be made easier if the form was uniform and easily recognizable by law enforcement and courts.

Furthermore, a simplified form would be easier to explain to petitioners and valuable time would be saved in processing the petitions. A simple instruction sheet should be part of the form packet given to petitioners. In recognition of geographical and jurisdictional differences, a brochure that explains the petition process as it relates to the local court should be widely available. The distinctions between the various types of orders and the respective process for attaining each should be simply described in the brochure. This would allow court personnel and petitioners to quickly determine the most appropriate process to use. This brochure should also provide a complete listing of community resources and the availability of advocates to assist in the protection order process. The forms, instructions, and brochures should be accessible to non- or limited-English speaking populations. Finally, each court and clerk's office should have a handbook on domestic violence and the protection order process.

## Sanctions for Violations of Protection Orders

### Recommendations

- 24. Violations of protection orders should be prosecuted.**
- 25. Current sanctions for violations of protection orders should be vigorously employed including the use of jail for the first offense.**
- 26. Graduated fines and penalties should be imposed based on the number of times the respondent has been convicted of criminal contempt for violating a civil protection order.**
- 27. Further study of the Sentencing Reform Act should be made to allow for sentences to be imposed which include probation supervision, batterers' treatment, and other appropriate options.**

RCW 26.50.110 sets forth the penalty for violation of a civil protection order. Violation of the order's restraint provisions is a criminal misdemeanor and also constitutes civil contempt of court. The Washington State Task Force on Gender and Justice found that one of the three most frequently cited suggestions by judges to improve protection order enforcement was to increase the penalties for violations. Similarly, a majority of service providers believed that penalties for violations should be increased.

It is important that all violations of protection orders be vigorously and consistently prosecuted. Prosecution lets offenders know that orders of the court are serious and that offenders will be held accountable. Ignoring so called "minor" violations such as telephone harassment, following the person, etc., teaches batterers that they do not have to pay attention to what the court says and teaches victims that batterers are more powerful than court orders. According to batterers' treatment experts, it is important to let batterers know from the beginning that violations will not be tolerated. By not imposing immediate strict sanctions, batterers are given the message that they can continue their behavior without repercussions.

Courts should also vigorously employ the sanctions that are available in RCW 26.50.110. Imposing sanctions for misdemeanor violations of protection orders helps ensure the safety of the victim and holds the batterer accountable. If there are multiple convictions for violations of protection orders, then sanctions that increase with severity should be imposed to reflect the seriousness of the continued criminal behavior.



In the past, a violation of a protection order gave rise to a criminal misdemeanor charge irrespective of the seriousness of the act committed during the violation (e.g., telephone harassment vs. physical or sexual assault). In an effort to elevate the sanction for violation of a protection order to a level that more closely reflects the seriousness of the act committed during the violation, the Human Services Roundtable 1991 Domestic Violence Omnibus Bill, ESHB 1884, included the following amended penalty provisions:

An assault that is a violation of an order for protection is a felony under RCW 9A.36.931 and reckless endangerment that is a violation of an order for protection is a felony under RCW 9A.36.045.

The result of this new law is that the most-severe and frequent-protection order violations will be charged as felonies rather than misdemeanors. The message is thus sent to the respondent that the system will treat protection order violations as a serious crime notwithstanding a separate resolution of the actual offense.

While the Task Force supports strict and severe sanctions for violations of protection orders, further study should be made regarding whether the existing Sentencing Reform Act is adequate to address offenders convicted of the newly enacted felonies mentioned above. When violations of protection orders that were assaults or reckless endangerment were punishable as misdemeanors, as was previously the case, the court had the complete discretion to impose a sentence of up to one year in jail and a fine of \$5,000. As a felony, it is quite possible that under the current system the standard range would be substantially less. In addition, with gross misdemeanors, a judge has the power to suspend a portion of the sentence on condition the offender complies with certain requirements. These conditions included, but were not limited to probation supervision for up to two years, and the requirement to obtain batterers' treatment, substance abuse, or other appropriate counseling. These conditions are not available to the sentencing judge under the Sentencing Reform Act as it now exists.

## **Mutual Domestic Violence Protection Orders**

### **Recommendations**

**28. The legislature should amend RCW 26.50 to prohibit issuance of mutual orders for protection without proper legal process for each cause of action (notice and filing of a written petition or-counterclaim) and statutory findings of good cause.**

Protection orders are made "mutual" when the court declares that both the petitioner and the respondent are subject to the restraints of one petition. This occurs without each party filing a separate petition, without notice of a hearing, and without the finding of good cause. The use of these mutual protection orders raises problems in due process, enforcement, and gender bias.

Mutual protection orders have been cited in several states' gender bias reports as evidence of continued bias in the courts' response to domestic violence. The Washington State Task Force on Gender and Justice defined gender bias "as actions or attitudes that negatively impact an individual or group primarily because of gender. Gender bias exists when decisions are made or actions taken based on preconceived notions about the nature, . roles, and abilities of men and women." The Washington State Task Force on Gender and Justice cited the belief in the myth that domestic violence is precipitated by the victims' provocations as an example of gender bias. The issuance of mutual protection orders is a result of the belief in this myth.

When courts issue mutual orders without filing of a separate written petition, notice to each respondent, or finding of good cause, then it is questionable whether due process is served for each party. Mutual protection orders label both parties as violent and treat both as being equally at fault. The message to the batterer is that the violence is excusable or provoked, and true accountability is masked. Victims who are not violent are confused, humiliated, and stigmatized by an order issued against them. In addition, victims requesting police assistance to enforce a protection order may themselves be arrested or find the orders unenforceable because they are mutual. Often both parties are arrested, with the practical effect of further victimizing the true victim.

Mutual orders of protection can be and are used against victims in other ways. For example, in criminal proceedings where defendants are charged with the originating offenses, defense attorneys may introduce a mutual protection order as evidence that the civil courts found the victim to be equally at fault.

As a remedy to the questionable practice of issuing mutual protection orders, several states have enacted explicit statutory provisions which require due process be followed in all respects. In New York, for example, a 1988 amendment to its protection order statute states:

No order of protection may direct any party to observe conditions of behavior unless the party requesting the order of protection has served and filed a petition or counter-claim in accordance with [the applicable statutory procedures of notice, filing, and service].

Similar versions have been codified in California, Massachusetts, and Arizona. Court challenges have also reached the same conclusion in Massachusetts, Ohio, and Minnesota.

## **Civil Domestic Violence Cases: Jurisdiction**

### **Recommendations**

**29. The jurisdiction of courts in domestic violence cases should remain as it is currently in RCW 26.50.020. This statute states the jurisdiction of domestic violence cases remains with district and municipal courts. However, jurisdiction is limited to temporary orders if any of the following conditions exist: a) a superior court has exercised or is exercising jurisdiction in a juvenile dependency case involving the parties, b) the petition involves visitation schedules of children of the parties, and c) the petitioner requests the court to exclude one of the parties from the dwelling which the parties share. Under any of these conditions the district or municipal court must transfer the case to the superior court.**

Domestic violence victims can petition any level of court for a domestic violence protection order. Under RCW 26.50.020 the jurisdiction of district and municipal courts is limited to temporary orders if any of the following conditions exist: a) a superior court has exercised or is exercising jurisdiction in a juvenile dependency case involving the parties, b) the petition involves visitation schedules of children of the parties, and c) the petitioner requests the court to exclude one of the parties from the dwelling which the parties share. Under any of these conditions, the district or municipal court must transfer the case to the superior court.

The practical effect of these requirements is that victims may file a petition for a temporary protection order in their local district or municipal court. After approximately 14 days, they may then need to travel to a superior court in a different city for the permanent order hearing. For some victims, this creates a barrier in obtaining a permanent protection order.

The Task Force recognizes that transferring the petition for a protection order from the municipal and district courts to the superior courts may cause an inconvenience to petitioners. However, Task Force members believe that superior courts have the resources and expertise to make determinations when complex issues of juvenile dependency, visitation, and property are involved in domestic

violence petitions. At the present time the appropriateness of the superior court to deal with these issues outweighs the inconvenience of transferring jurisdiction in domestic violence cases. Courts may want to develop procedures to minimize the negative impact of this statute on victims and facilitate their following through with court hearings transferred to superior court.

## **Services for Victims and Interventions for Batterers**

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Domestic violence victims' advocacy services are crucial in assisting victims in protecting themselves and their children from the violence. These services are based on the knowledge that the responsibility for domestic violence rests with the individual batterer and with the social and institutional beliefs that condone and perpetuate domestic violence. While many victims and their children suffer long-term emotional effects from surviving the violence, they are not "sick" and do not necessarily need psychological treatment. Rather, what has been found to be essential in helping victims free themselves from batterers is immediate safety or shelter; survival needs (food, clothing, etc.); emotional support; information about domestic violence; access to financial, housing, medical, and other resources; and advocacy and assistance in negotiating the complex, often hostile, legal and social service systems. This understanding has led community-based victims' service providers to focus on providing confidential shelter, support, and advocacy services designed to empower victims rather than blame them.

Another essential component of a coordinated response to domestic violence is interventions for batterers. Courts often order batterers to obtain treatment as a condition of a protection order, restraining order, order of continuance, deferred prosecution, deferred sentencing, or suspended sentence. If courts are to order treatment for batterers, this treatment should be ordered only when appropriate and only where adequate programs are available. There should be standards to ensure that treatment is effective. Such cases should be closely monitored by a representative of the court.

Any response to domestic violence should place victim safety as the highest priority. Since domestic violence victims' service programs are established to provide the necessary safety and support for victims, they should be given priority in funding over programs that offer batterers' interventions. In addition, providing services for victims benefits the batterers' rehabilitation. Experts agree that batterers' treatment is most effective when victims have access to services and support such as that offered by victims' service providers. Batterers are less conducive to change if they know the victim is still accessible and under their control.

The Task Force reviewed current services for victims and interventions for batterers in Washington State. Recommendations are offered for the following:

- Domestic Violence Legal Advocates
- Services for Victims
- Interventions for Batterers
- Standards for Batterers' Treatment Programs and Therapists
- Standards for Victims' Service Providers

## **Domestic Violence Legal Advocates**

### **Recommendations**

- 30. The legislature should increase community-based, domestic-violence legal-advocacy funding.**
- 31. Court-based domestic violence legal advocates should also be available.**

Domestic violence legal advocates assist victims of domestic violence through specific civil and criminal court proceedings. Domestic violence legal advocates attend court proceedings, may screen police reports, assist with preparation of protection order petitions, and advocate for the needs of the victim within the civil and criminal justice systems. They may work for community-based domestic violence agencies or they may work for the local court system in a technical, time-limited framework.

Community advocates, on the other hand, are located within local domestic violence agencies. Their major tasks include working on a safety plan for the victim; providing referrals to other agencies; assisting and educating the victim in dealing with other service delivery systems; ongoing legal advocacy beyond that of the protection order process (e.g., family law issues, agency advocacy); and education, advocacy, and monitoring of other service delivery systems and their interaction with victims. In many instances, a program's legal advocate and community advocate may be the same person who may perform all the functions listed above. The availability of these dual advocacy functions offers the necessary range of services to victims of domestic violence.

Beginning in June 1990 the legislature provided funding for a half-time domestic violence legal advocate in each community-based victims' shelter program in the state. In the one year that legal advocates have been in place in local domestic violence programs, the quality of victim advocacy in the courts has been greatly enhanced. Not only are domestic violence victims receiving the attention they deserve by the legal system, but the system itself acknowledges that victim advocates allow the process to be more sensitive, efficient, and effective.

Domestic violence legal advocates expedite civil court proceedings in several ways. Advocates ensure that: 1) the legal criteria are met by the petitioner requesting a protection order; 2) the protection order petitions are properly and completely filled out and the service information is available; 3) petitioners receive information on how to prepare for the *ex parte* and final court hearings. Domestic

violence legal advocates also assist in criminal court cases by 1) acting as a liaison between the criminal justice system and the victim; 2) providing victims with information concerning the court process; 3) informing victims of court dates; 4) providing information to prosecutors (e.g., information about other victims); and 5) providing information to probation services. It has been shown that victims are more likely to follow through with a legal process they understand and from which they can gain assistance.

## Services for Victims

### **Recommendations**

**32. The legislature should increase general operational funds for all domestic violence shelter and safehome programs.**

**33. The legislature should provide funding for children's services in all domestic violence shelter and safehome programs.**

**34. The Washington State Coalition Against Domestic Violence should be recognized and funded as the statewide coordinating agency for domestic violence victims' services.**

By the very nature of domestic violence, victims are often cut off from resources to adequately provide for their financial and legal needs. Lack of such resources is a major reason for victims returning to violent situations. Consequently, adequate funding for domestic violence victims' service providers is crucial if interventions, however well designed, are to be effective in protecting victims of domestic violence.

Community-based battered women's shelters and advocacy programs are extremely effective in providing both the safety and support necessary for battered women and their children to escape from their abusers. Currently, there is at least one domestic violence program capable of providing shelter for victims in every county in Washington State, and there is a statewide, 24-hour, toll-free hotline. However, the Washington State shelter system is only able to serve fewer than half of the women and children seeking shelter, and many programs are able to provide only portions of the range of services necessary to adequately address the needs of the women and children they do serve. For example, many agencies lack children's programs, 24-hour staffing, follow-up, legal advocacy, and other essential services.



Statewide groups are established which have expertise in the field of domestic violence. The Washington State Coalition Against Domestic Violence (WSCADV) is a coalition of community-based victims' service providers. This group currently provides direction and advocacy on behalf of programs that provide services for victims of domestic violence. In addition, WSCADV plays a leadership role in the development of public policy relating to domestic violence.

## Interventions for Batterers

### Recommendations

**35. The legislature should subsidize offender treatment for indigent or poverty level offenders with the following conditions:**

- 1) Priority be given to funding for services for victims. (See page 49.)**
- 2) The batterer be expected to pay something for treatment, even if the amount of co-payment is small.**
- 3) Funding for batterers' treatment be contingent on:**
  - a. The batterers' treatment program being part of a coordinated, community-wide response to domestic violence;**
  - b. Subsidies being for court-ordered indigent offenders;**
  - c. Only treatment provided by qualified domestic violence perpetrator counselors or programs meeting standards be subsidized; and**
  - d. Funding be provided only for treatment provided, **not** for projected treatment.**

**36. A statewide coordinating network or organization for batterers' treatment providers and probation personnel should be established. This network should include representation from the Washington State Coalition Against Domestic Violence.**

In recent years community programs providing interventions and treatment for batterers have been established. As demand for these services has increased, the question of public funding has arisen. If public funds are spent on programs that provide batterers' interventions, these programs should meet certain standards and should provide treatment specifically designed to stop the batterers' violence. Batterers' treatment programs are most likely to be successful if they are part of a coordinated, community response to domestic violence and if there are clear consequences to the batterers' failure to comply. Since domestic violence is considered a crime, court ordered and monitored treatment provides the best opportunity to successfully change batterers' behavior.

If courts order treatment, they should do so only under appropriate circumstances (see guidelines in Stipulated Order of Continuance and probation sections) and only to qualified batterers' intervention programs. Treatment providers recommend that requiring batterers to pay for their treatment costs is important in holding them accountable. However, if treatment is to be used as a legal sanction, it must be made available to all eligible offenders regardless of their ability to pay. It may, therefore, be necessary to provide financial assistance to appropriate indigent batterers.

At this time there is no coordinating organization for individuals, groups, and agencies focused on issues related to perpetrators of domestic violence. There is a current effort to develop a network for such individuals and groups. The primary goals of this organization should be: 1) the safety of the victim and the community and 2) holding batterers accountable for changing the abusive and controlling behavior. In order to attain these goals the development of a network for batterers' intervention providers (counselors, probation, etc.) should be coordinated with the Washington State Coalition Against Domestic Violence.

## **Standards for Batterers' Treatment Programs and Therapists,**

### **Recommendations**

**37. The legislature should adopt certification standards developed by the Seattle-King County Domestic Violence Intervention Committee and the King County Human Services Roundtable for domestic violence perpetrator treatment counselors and programs. Make certification a requirement for receiving court referrals.**

**38. Compliance with standards for perpetrator treatment counselors and programs should be reviewed and evaluated on a yearly basis. The process of establishing, implementing, and evaluating these standards should always include the participation of battered women's advocacy groups such as shelter programs or the Washington State Coalition Against Domestic Violence as well as other relevant groups.**

**39. The legislature should amend RCW 26.50.060(d) to insert the word "batterers" before the word treatment and delete "counseling services," in order to make it clear that batterers must attend specialized treatment specifically designed to end their battering behavior.**

The safety of domestic violence victims and the community is the ultimate goal of all those responding to domestic violence. Victims' service providers are recognized as providing expertise regarding victim safety and should be included in any discussions regarding domestic violence interventions. To ensure the safety of the victims of domestic violence, the offender must be held accountable to the victim, the legal system, and the community. This accountability must be reflected in the way in which offenders are dealt with throughout the system. As previously stated, treatment for batterers is often a component of the criminal justice response to domestic violence.

Given the lethal nature of domestic violence and the high social costs it creates, the legal system and the community have a vested interest in ensuring that offender treatment is based on methods understood to be most effective in ending battering behavior. Similarly, providers of batterers' treatment must be well educated about domestic violence and highly skilled in current batterers' counseling methodologies.

Battering is a deeply-entrenched, learned behavior requiring extensive, specific intervention if change is to occur. Experience and research evidence demonstrate that different intervention methods vary widely in their ability to change the behavior of batterers. Approaches once in common use, such as marriage or family therapy, relaxation therapy, or anger management, have since been found to be ineffective and sometimes damaging.

Because of the seriousness of this behavior and the consequences of reoffenses, the treatment approaches used with batterers and the individual offering such treatment must be adequate to the task. Inadequate treatment programs or intervention personnel detract from the credibility of efforts to address domestic violence, directly threaten the safety of the victim and the community, and stand in the way of implementing more effective interventions. Too often they encourage denial or do not hold the batterers fully accountable for their abusive, controlling behavior. Programs not specific to domestic violence, such as anger management

and chemical dependency counseling, however professionally qualified in other fields, are limited in domestic violence cases. Consequently, they are ineffective and further endanger the victim and the community.

To be effective, programs that provide batterers treatment must have specific objectives:

- Increasing clients' responsibility for their battering behavior;
- Developing behavioral alternatives to battering;
- Decreasing isolation by developing personal support systems;
- Decreasing dependency on and control of persons(s) they are abusing;
- Increasing the appropriate identification and constructive expression of all emotions;
- Increasing appropriate communication and problem-solving skills; and
- Increasing [batterers'] understanding of the societal and family facilitators of [domestic violence]. (Ganley, 1981.)

Batterers must be held accountable for their behaviors, emotions, and attitudes. Batterers' counseling techniques include non victim-blaming strategies; reports on behavior outside the counseling session; communication within the session; programs encouraging others to hold the batterer accountable; and measuring progress on what is observable, not on intentions or promises. Appropriate use of confrontation is crucial to altering the batterer's characteristics of minimization, denial, and externalization. Due to the theoretical view that battering is a learned behavior, psychoeducational therapeutic approaches are most appropriate. Group settings are utilized by programs for batterers because they provide the best setting for batterers' changing behavior. Minimum standards for intervention and offender treatment programs which address these objectives and techniques have been drafted by the Seattle-King County Domestic Violence Intervention Committee. (See appendix A.)

## Standards for Victims' Service Providers

### Recommendations

**40. Maintain current minimum standards for domestic violence shelter and safehome programs as stated in the Washington Administrative Code as a condition for receiving state funding.**

**41. The Department of Social and Health Services should solicit input from the Washington State Coalition Against Domestic Violence when reviewing and making changes to standards and funding formulae for domestic violence victims' service providers.**

Programs that provide services for victims of domestic violence are currently monitored by the Department of Social and Health Services. The Washington Administrative Code (WAC) establishes minimum standards which address adequate food, clothing, housing, safety, security, advocacy, and counseling for victims utilizing domestic violence services. Programs that do not meet these standards may have their approval and funding denied.



## **Additional Items for Future Study**

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The Task Force discussed many issues regarding domestic violence that require careful consideration. Due to limited time and resources these items were not addressed in this report. The Task Force suggests that the following be considered in the future for review and recommendations.

- 1) Enact laws prohibiting the granting of a gun permit to an individual convicted of a domestic violence crime, either misdemeanor or felony.
- 2) Include child support in the Domestic Violence Prevention Act relief section.
- 3) Extend the duration of a protection order beyond one year through a reissuance or renewal process.
- 4) Create provisions to obtain *ex parte* protection order relief on weekends, holidays, and evenings.
- 5) Eliminate the filing fee requirement for protection orders.
- 6) Extend the definition of "family or household member" to include emancipated minors and individuals in dating relationships.
- 7) Establish a process to allow for full faith and credit of a protection order issued in another state.
- 8) Explore alternatives to personal service to the respondent for notice of a protection order hearing.
- 9) Clarify and strengthen visitation conditions in the protection order.
- 10) Explicitly clarify the role of victim advocates and allow for their assistance in court at protection order hearings and criminal proceedings.
- 11) Explore additional procedural and substantive barriers that prevent victims of domestic violence from accessing the law, safety, and justice system for relief and enforcement of orders.

- 12) Review the necessity for a statewide, ongoing commission for domestic violence.
- 13) Explore increasing accessibility to services and the legal system for victims from specialized populations, such as non-English speaking, disabled, hearing impaired, gay, and lesbian.
- 14) Explore increasing accessibility to batterers' treatment for offenders from specialized populations, such as non-English speaking, disabled, hearing impaired, gay, and lesbian.
- 15) Increase centralized collection-of data on domestic violence for the courts, prosecutors, and probation departments.
- 16) Review the appropriate use of material witness warrants.
- 17) Determine if and under what circumstances courts should be included in the requirements for mandatory reporting to Child Protective Services.



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# **Standards for Domestic Violence Perpetrator Counselor and Treatment Programs**

## **Preface**

Domestic violence is a widespread problem with lethal consequences to victims and the communities in which they live. Domestic violence is a pattern of physical, sexual, and psychological assaults which perpetrators direct at adult intimates. Sometimes the same abusive pattern is present in adolescent dating relationships. The violence may result in death or permanent physical injury or may cause profound psychological damage to the victims. Not only are the primary victims affected, but so are the children who witness this abuse or who themselves are abused as part of the pattern. Furthermore, the violence ripples outward into the community as helpers or innocent bystanders are injured or killed in the violence a perpetrator uses to maintain control over the victim.

Given the lethal nature of domestic violence as well as its tendency to affect all within its range, the community has a vested interest in the methods used to stop and prevent future violence. Interventions for domestic violence must be based on a complete understanding of the most effective strategies for this specific problem and should be implemented by those well educated and skilled in those methodologies. Treatment for the perpetrators is recognized as only one of the contributions to effective intervention with those who batter. Other effective intervention strategies include safety for the victims, prompt response by law enforcement, rigorous prosecution, appropriate adjudication, close monitoring by probation, and sentences which reflect the seriousness of this crime against the community. However, since treatment is one approach being used for a problem that has such serious consequences to others, the providers and programs for such treatment should meet the highest standards. These standards are necessary to recognize that domestic violence is a serious, potentially lethal problem and that the treatment of these violent individuals requires more than just a general knowledge of the treatment of behavioral or interpersonal problems.

To assist in reaching the highest standards we are proposing the following minimum standards for all counselors and programs for perpetrators of domestic violence.

**Part 1**  
**Domestic Violence Perpetrator Counselor**  
**Requirements**

Amend RCW 18.19.020 between items (3) and (4) to include the following definition:

"Certified domestic violence perpetrator counselor" means a person certified to practice counseling pursuant to RCW 18.19.140.

Create RCW 18.19.140 to read:

**RCW 18.19.140 - Certification of domestic violence perpetrator counselors**

(1) The department shall issue a certified domestic violence perpetrator counselor certificate to any applicant meeting the following requirements:

(a) Meet all the qualifications for a certified mental health counselor as set forth in RCW 18.19.120, certified marriage and family counselor as set forth in RCW 18.19.130, certified social worker as set forth in RCW 18.19.110, or licensed psychologist or psychiatrist as set forth in RCW \_\_\_\_\_.

(b) Document at least 30 hours of workshops or continuing education training or university/college classes specific to domestic violence. One college credit is equal to 5 hours of workshop time.

(2) In addition to the qualifications of section (1) the applicant shall meet the following requirements:

(a) Document satisfactory completion of at least 1,000 hours of direct service in the treatment of domestic violence perpetrators in a program which meets the definition of a qualified domestic violence perpetrator program as described in RCW 18.18. \_\_\_\_ or under the supervision of a certified domestic violence perpetrator counselor.

(b) Document one hour of direct supervision for each ten hours of client contact under the supervision of a certified domestic violence perpetrator counselor.

(c) Document at least 100 hours of supervised victim support, advocacy or treatment with at least 10 hours of direct supervision by a victim advocate or victim treatment specialist, as defined in (4). The victim advocate or advocacy program providing the supervision must also be an active member of the local or state coalition against domestic violence. Some of these supervised hours may include work in domestic violence coalitions.

(3) Domestic violence is assaultive behavior committed by one adult against another. Domestic violence includes but is not limited to physical, sexual or psychological assaults. Its effect is to control, dominate and/or hurt another within an intimate, adult egalitarian relationship. Domestic violence goes by many names including but not limited to spouse abuse, wife abuse, marital assault and woman battering.

(4) The terms victim and victim advocacy are used in this document to refer to victims of domestic violence and not victims of other types of violence or of other crimes. Victim advocate or victim treatment specialist is defined as an individual currently working with an agency or program which provides services to victims of domestic violence.

(5) Domestic violence perpetrator counseling consists of evaluation, education, and counseling for individuals who have committed acts of domestic violence. Counseling for the perpetrator of such violence emphasizes the responsibility of the individual for his/her behavior and the teaching and practicing of appropriate interpersonal skills and responses within intimate adult egalitarian relationships.

(6) This section does not address those services provided to victims or children of domestic violence offenders.

## **Part 2 Qualifications and Continuing Education**

(1) To maintain the certification the individual must:

(a) Document at least 20 hours per year of ongoing professional education which is specific to the topic of domestic violence perpetrator counseling.

(b) Document an ongoing affiliation with domestic violence coalitions or other such victim advocacy groups, representatives of the legal system, and other domestic violence batterer counselors, where such exist.

## **Part 3 Exception to. Qualifications (grandparenting clause)**

A section, tentatively labeled **18.18.200 - Exceptions for existing practitioners**, shall be added which will read:

Any person who can document the following qualifications at the time this bill takes effect and otherwise meets all the qualifications for domestic violence perpetrator counselor may be exempt from the requirements in 18.19.140, part 2.

(1) At least two years' full-time experience or its equivalent in the practice of domestic violence perpetrator counseling in a qualified program as described in RCW 18.18.\_\_\_\_\_.

(2) At least 100 hours of victim support, advocacy or treatment.

(3) Membership and participation in a community domestic violence group, such as a domestic violence coalition or network.

## Part 4

### Domestic Violence Perpetrator Program Qualifications

To qualify as a domestic violence perpetrator program or provider which can accept perpetrators of domestic violence into treatment to satisfy court orders or to represent the program or provider as one which treats domestic violence perpetrators, the treatment must meet the following minimum qualifications:

(1) All treatment must be based upon a full, complete clinical intake consisting of not less than:

- Violence history, current and past, as a victim, witness and/or perpetrator including physical, sexual and/or psychological violence.
- A lethality/risk assessment.
- A complete diagnostic evaluation identifying possible significant factors such as organic impairments, psychosis, etc.
- A substance abuse assessment or referral to an appropriate individual or agency for such an evaluation when indicated.
- Criminal history.
- Assessment of cultural issues, learning abilities, literacy, and special language needs.
- A treatment plan which adequately and appropriately addresses the treatment needs of the individual.

(2) The program or provider must have and practice policies and procedures which assess for and work for the safety of the victims of the batterers in the program. These policies must specifically:

- Not compromise the safety and integrity of the victim.
- Provide for the notification of the victim of his or her rights as well as referral to an appropriate victim advocacy program.
- The safety procedures to be followed by the program or the provider must be developed in consultation with the victim.

(3) To facilitate communication necessary for periodic safety checks and case monitoring, the program/provider shall require the client to sign releases of information for:

- The victim.
- All prior treatment agencies.
- All relevant legal entities: lawyers, courts, parole, probation, Child Protective Services, Child Welfare Services, etc.
- Those providing advocacy or support for the victim.

(4) Treatment shall be a minimum of 12 months and shall include the above described clinical intake/assessment sessions, case monitoring, and at least 24 weekly sessions. The weekly treatment sessions must be in a group unless there is a documented, clinical reason for another modality. Any other therapies, such as individual, marital or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews, can be concomitant with the above treatment but not a substitute for it.

(5) The treatment shall focus primarily on ending the violence, holding the perpetrator accountable for his/her violence and for changing his/her behavior. The treatment shall be based on non-victim-blaming strategies and philosophies and shall

include education about the individual, family and cultural dynamics of domestic violence.

(6) Satisfactory completion of treatment shall be contingent upon the batterer meeting written, specific completion criteria, and not just upon the end of a certain period of time or a certain number of sessions.

(7) The program or provider must have and practice policies and procedures for dealing with re-offenses and non-compliance.

(8) The program or provider must be meaningfully involved in an ongoing coordination committee or coalition which includes representatives from geographically relevant legal systems and victim advocacy groups and agree to answer to that group on questions of ethics, practice and victim safety. The program or provider must submit its policies, procedures and qualifications for review by that group.

(9) All evaluation and treatment services must be provided by, or under the supervision of, certified domestic violence perpetrator counselors.

## **Part 5 Education**

Modify **RCW 18.19.110 - Certification of social workers**, to include a section (2)(b)(iii) which states, "specific training and education in the field of domestic violence."

Modify **RCW 18.19.120 - Certification of mental health counselors**, to include a section (1)(a)(e) which states, "specific training and education in the field of domestic violence."

Modify **RCW 18.19.130 - Certification of marriage and family therapists** part (1)(a)(i) to include a section (I) which includes the category "domestic violence."

Modify **RCW \_\_\_\_\_ - Certification of licensed psychologists**, and **RCW \_\_\_\_\_ - Certification of psychiatrists**, to include training in domestic violence.