

**La Crosse County**  
**Domestic Violence Safety and Accountability Audit**  
**Phase 2: Post-arrest through prosecution**

**Findings and Recommendations – Summary**  
**July 2007**

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**Background**

*How do post-arrest and prosecution responses to domestic violence cases in La Crosse County enhance or diminish victim safety and batterer accountability?*

In 2006, community partners in the La Crosse County asked this question in a Phase 2 Safety Audit that followed an earlier examination of criminal case processing from 911 through arrest.<sup>1</sup>

A Safety Audit<sup>2</sup> looks at how work routines and ways of doing business strengthen or impede safety for victims of battering. Its focus is on institutional processes, not individual workers. A trained local team conducts interviews and observations with practitioners who are skilled and well-versed in their jobs. Their knowledge of the institutional response in everyday practice and their first-hand experience with the people whose cases are being processed supply many of the critical observations and insights of the audit. The team also reviews case files, policies, and other documents.

The Phase 2 team included a coordinator from DVIP and representatives from the La Crosse County District Attorney's Office (prosecution and victim-witness support), La Crosse County Sheriff's Department (jail and patrol), La Crosse Police Department (DART<sup>3</sup> and patrol), Justice Sanctions, New Horizons Shelter and Women's Center, Franciscan Skemp Healthcare, and Gundersen Lutheran Medical Center, with assistance from Praxis International.

The team's information-gathering included two focus groups with victims of battering; forty-six individual interviews with practitioners involved in criminal case processing; eighty-seven observations of courtroom proceedings; and, analysis of over seventy-five case files and related

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<sup>1</sup> The Phase 1 report is available from DVIP or on-line: [http://www.praxisinternational.org/SA\\_frame.html](http://www.praxisinternational.org/SA_frame.html)

<sup>2</sup> The Praxis Domestic Violence Safety and Accountability Audit, Praxis International, Inc.

<sup>3</sup> DART: Domestic Abuse Reduction Team

documents. They met for multiple debriefing sessions and each team member had several opportunities to participate in framing the findings and report.

In a Safety Audit, the constant focal point is the *gap* between what people experience and need and what institutions provide. At the center of the inquiry is the effort to see the gap from a victim's position, and to see how it is produced by case management practices. In doing so, we simultaneously discover how to solve it. Recommendations then link directly to the creation of new standardizing practices, such as new rules, policies, procedures, forms, and training.

### ***Recognizing a strong foundation***

La Crosse has long been willing to engage in a process of analysis and problem-solving that identifies gaps in safety for victims of battering. This work continues that tradition and builds from a foundation of strong working relationships, a longstanding coordinated community response, multiple resources for victim advocacy, a commitment to domestic violence-dedicated prosecution, and great compassion and concern for victim safety and well-being. Nine different agencies contributed personnel and staff time and assisted in setting up interviews, providing time for observations, and sharing reports and case files. There is openness to innovation within the criminal legal system and beyond.

Victim support is available from initial police response through prosecution and a specialized, multidisciplinary response team has been in place for several years as part of the response to the highest risk cases. Efforts are made to practice vertical prosecution in domestic violence cases, providing consistent expertise and familiarity for victims throughout the duration of the case via the same prosecutor. Individuals with great compassion and concern for victim safety and well-being characterize the coordinated community response.

### ***Discovering gaps***

Because a Safety Audit is always trying to ask questions from the standpoint of victims of battering, there are inevitably cases that stand out as reflecting many of the gaps that are discovered along the way. In this Safety Audit it was not so much a single case or two that provided that perspective, but the level of violence that many victims of battering experience on an ongoing basis from batterers who have repeated encounters with the criminal legal system, but seem to experience relatively little sanction. The following illustration of this repeated violence draws on nine different cases.

He dragged her out of bed by her hair, head-butted her repeatedly, twisted her arm... abrasion to her forehead, red marks on both arms... Three weeks later: He wouldn't allow her to sleep, slammed her head into a cupboard door (leaving an imprint of her head)... bruises to eyes and head, cracked rib, cigarette burn on leg... Three weeks later: he slapped and pushed her into a wall... He strangled her and bit her in the face (in front of her infant)... unable to breathe, trouble swallowing, bite marks to her face and marks to her neck... Five months later: he pulled the phone out of the wall, punched a hole in the wall, grabbed her by the throat and strangled her... He pinned her to the ground where her children were sleeping, threatened her with a baseball bat... he had a knife in hand and

threatened to kill himself...He called her (ex-partner) thirty to forty times, day and night, threatening to “put her head in a vise and kick her ass”...Less than three months later: (different woman, current girlfriend): punched two holes in the wall, broke a door jamb, threatened her...He put a cigarette out on the victim’s face, threw a beer can at her head... burn mark to her thigh and black eye...Struck the victim in the head three times with a closed fist...Strangled the victim, bite marks to her arm, broke a window of a vehicle while her infant was in it...Kicked in the door to the room where she had locked herself in, jumped on top of her, punched her in the head, ripped her shirt off, strangled her...finger impressions to her neck, golf-ball size bump on her head...Pushed her into a wall, grabbed her by the throat and squeezed, threw her to the ground...she had fractured hand, multiple bruises to arm, back, eye, throat, red marks on neck...

The Safety Audit discovered the following gaps related to post-arrest response to domestic violence cases in La Crosse County.

1. *Pretrial release conditions do not consistently account for potential risk to victims of battering.*

There is no formal pretrial release assessment being conducted by any one person, department or agency that fully accounts for the dangerousness of an offender or the nature of battering as a pattern crime. Only two of the thirty-four cases reviewed went to Justice Sanctions for monitoring as a condition of pretrial release. In most cases there is no opportunity for any formal assessment of risk or need and the court has limited information about the offender’s criminal history, history of battering, substance abuse, and mental health. By default, the responsibility for whatever level of danger assessment occurs prior to release in most cases lies with the prosecutor, who does not interview the offender and typically does not have an opportunity to speak with the victim.<sup>4</sup> There does not appear to be a process in place to assist a judge in evaluating risk related to conditions of release, particularly when an offender has violated previous pretrial release conditions or has failed to appear in the past. When an offender is released from custody, no one person is responsible for explaining the conditions of release to the offender or the victim. The protocol for notifying a victim of an offender’s release from custody is for the jail to notify someone at New Horizons, who is then responsible for contacting the victim. Most often an offender is in the process of leaving the jail or has been released when the call to New Horizons occurs.

2. *Aspects of courthouse and courtroom organization, environment, and procedures diminish victim safety and offender accountability.*

A Safety Audit that explores criminal case processing from post-arrest through prosecution inevitably touches on aspects of courtroom environment and procedures. Most of the team’s eighty-seven observations occurred in the courthouse, across all five of the judicial rotations. Court proceedings are swift, with little or no clear explanation of the decisions made and

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<sup>4</sup> Justice Sanctions has one staff member who utilizes the Spousal Assault Risk Assessment (SARA). She incorporates some of its questions and aspects as she conducts an LSI interview with an offender, but only she has the individual background to do this. Additionally, the caseload she supervises is comprised of sentenced offenders.

conditions of release. It is common for initial appearances and proceedings around requests to lift no-contact orders to last less than two minutes. The current process does not account for people's limitations in language, literacy or cognition. There was rarely a community-based advocate present in court with a victim who was requesting to lift a no-contact order or for any other proceeding related to a domestic violence case. Victim address information required for witness fees can be accessible as open records information and domestic violence cases are on court dockets with all types of criminal cases. A victim of battering may have to wait several hours for the case to come up, often in close proximity to the batterer or his friends and family.

3. *Victims' voices and visibility are inconsistently incorporated into prosecution and Justice Sanctions responses.*

As noted above, there was rarely a community-based advocate with a victim during court proceedings. On occasion the team saw the victim-witness coordinator from the district attorney's office with a victim, but not routinely. A victim's connection with the prosecutor's office rests largely on filling out the forms in a victim information/contact packet, sent within days of an arrest incident. It arrives at a time that can be very chaotic, stressful and overwhelming, and the forms related to victim notification, restitution, and impact must be returned within seven days. Few victims return the forms. While the victim-witness coordinator and often the prosecutor as well attempt to contact the victim by telephone, both within the first twenty-four hours and as the case proceeds, there is a short turnaround time between the incident and decisions related to pretrial release conditions, as well as a case volume of over 2,000 domestic violence referrals annually. Justice Sanctions routinely evaluates jail inmates for pretrial release and post-sentence supervision without victim input.

Many questions emerged during the Safety Audit about the mandatory, blanket application of no-contact orders as a condition of pretrial release. The volume of requests to lift such orders (over half of the cases reviewed) suggests that either the order itself or the length of the order is problematic for many victims. Requests to lift the orders fell into three categories: economic and childcare needs; fear of the offender; and, the dynamics of battering and the pressure on victims to mask or deny what had happened. For victims of ongoing battering, all three concerns were often evident in seeking to lift a no-contact order.

4. *Linkages between some key intervening agencies and/or aspects of case processing could be more fully developed, maintained, and documented in ways that best support victim safety and offender accountability.*

The Safety Audit found several ways in which linkages between those intervening in domestic violence cases in La Crosse County could be better developed or maintained. Neither the DART list of active cases, Justice Sanctions' conditions (pre- and post-sentence), or conditions of diversion agreements routinely reach patrol officers and other coordinated community response partners. Justice Sanctions does not generally have the police report available when evaluating an offender for release and/or conditions of supervision. Jail telephone recordings of offenders with domestic violence related charges are not readily identified or retrieved in ways that could support protecting victims from ongoing

intimidation or coercion from a batterer who is in custody. There is no process in place to monitor offenders with repeated violations of pretrial release conditions and/or who may have numerous active cases within La Crosse County jurisdictions or in neighboring counties or adjacent Minnesota counties.

5. *The prosecution and case disposition process, and in particular the response to repeat offenders, can diminish batterer oversight and accountability.*

The team's detailed review of thirty-four prosecution cases raised questions about plea agreements in cases of ongoing battering, review of predominant aggressor considerations in dual arrest cases, and patterns of arrest, release, and re-offense involving the same offender in cases of significant violence and dangerousness. Few cases resulting in a guilty plea involved Justice Sanctions' monitoring or a domestic abuse assessment as a sentencing condition. Of the thirty-four cases reviewed, thirty did result in a conviction, although approximately two-thirds of the initial charges filed were withdrawn by the time of final disposition. The review of dual arrest cases raised questions regarding review of predominant aggressor factors, gauging which person was most likely to be at most risk, and accounting for the impact of prosecution on victims of ongoing battering who have been arrested. The review of three cases involving diversion agreements raised questions about inconsistent enforcement of diversion conditions and a lack of focused attention to battering behavior.

### **Next steps**

If there is a single, overarching conclusion from the Phase 2 Safety Audit, it is the challenge to refresh the mission, purpose, and function of La Crosse County's coordinated community response to battering and other forms of domestic violence. There is much in place in the criminal case processing that has been examined here, as well as in Phase 1, that works well in supporting safety for many victims of battering. There are also areas where the fabric of safety has frayed or has yet to cover. Closing the gaps will mean making changes that address many aspects of intervention, including:

- Pretrial release conditions
- Use of no-contact orders
- Victim visibility and voice in decision-making
- Advocacy assistance and availability in criminal case proceedings
- Response to multiple cases of severe, ongoing battering (including the role of prosecution, DART, and Justice Sanctions)
- Timeliness of victim notification when an offender is released from jail
- New strategies for acting on a batterer's ongoing intimidation of a victim/witness
- Purpose and use of domestic abuse assessments
- Community assumptions about what battered women "should" do and beliefs that advocates should persuade them to do it (i.e., they should leave)
- Definitions and goals related to accountability

La Crosse's tradition of coordination across intervening systems and community-based organizations supports a collective effort to close the gaps. Across the range of gaps and related recommendations, the following agencies and practitioners will be involved in crafting solutions:

- Coordinated Community Response Task Force
- DVIP
- La Crosse County District Attorney's Office; prosecutors, investigators, victim/witness coordinators
- Public Defenders
- Court Administration
- Justice Sanctions
- Probation and Parole
- Patrol officers and supervisors
- La Crosse County Jailers and supervisors
- New Horizons advocates
- DART officers and advocates
- Hospital domestic violence programs
- La Crosse County Communications Center; call-takers, dispatchers and supervisors
- Family Court Commissioner
- Circuit Court Judges
- Victims and survivors of battering from diverse communities and social positions
- Multi-cultural advocates
- Administrators and others responsible for policy oversight
- Practitioners, researchers and advocates engaged in the national dialogue on safety and danger assessment, pretrial release processes, mandatory arrest laws and the concept of predominant aggressor, battering in diverse communities

The gaps identified in this Safety Audit are **not** the result of individual practitioners who are unconcerned about their work or uncaring or unaware of the impact of battering on people's lives. They are produced by how intervening agencies organize and coordinate work to respond to domestic violence cases. Recommendations for closing each gap, and the kind of changes that might be involved, are included at the end of this summary. The full report includes a detailed discussion of each gap, with accompanying case examples.

**2006 La Crosse County Domestic Violence Safety and Accountability Audit – Post-Arrest through Prosecution  
Key Findings and Recommendations**

Gap 1: Pretrial release conditions do not consistently account for potential risk to victims of battering.

Gap 2: Aspects of courthouse and courtroom organization, environment and procedures diminish victim safety and offender accountability

Gap 3: Victims’ voice and visibility are inconsistently incorporated into prosecution and Justice Sanctions responses.

Gap 4: Linkages between some key intervening agencies and/or aspects of case processing could be more fully developed, maintained, and documented in ways that best support victim safety and offender accountability.

Gap 5: The prosecution and case disposition process, and in particular the response to repeat offenders, can diminish batterer oversight and accountability

<b>Recommendations</b>	Mission, purpose, & function	Concepts and theories	Rules & regulations	Administrative Practices	Resources	Education & training	Linkages	Accountability
	<b>What kind of change might help close this gap?</b>							
1.1 Establish a consistent and standardized process for determining pretrial release conditions in domestic violence-related crimes that best account for protection of victims of battering and the public.	√	√		√			√	√
1.2 Hold a “dangerousness summit” where all intervening agencies, from arrest through disposition, convene to examine how danger and risk are established and addressed in domestic violence cases and address how the process can be strengthened.	√	√				√	√	√
1.3 Explore options for a mandatory pretrial release information class or video that explains all conditions of release.			√	√	√	√		
1.4 Define the purpose and intent in referring an offender in a domestic-violence related crime to Justice Sanctions as a condition of pretrial release.	√			√			√	
1.5 Explore and enhance the enforceability of bond conditions related to Justice Sanctions’ conditions: i.e., “comply with Justice Sanctions.”			√	√		√	√	
1.6 Consider creating a dedicated position to coordinate processing and review of domestic violence cases, with a particular focus on cases where the offender has multiple offenses or violations of pretrial release conditions.	√			√	√		√	√
1.7 Explore the possibility of specialized caseloads for Justice Sanctions’ staff who supervise domestic violence related cases, both pre- and post-sentence.				√	√		√	
2.1 Implement a process for a preventive security presence outside the courtrooms.	√			√	√			
2.2 Explore the possibility of offenders making their initial appearance from another location, with the use of closed circuit television.			√	√	√		√	
2.3 Expand the practice of vertical prosecution in domestic violence case disposition to include judges.	√	√		√	√		√	√
2.4 Explore establishing a dedicated docket for domestic violence cases.		√		√	√			
2.5 Assess the role of and need for probation officers and Justice Sanctions staff to appear in court to address alleged violations of pretrial release and conditions of sentenced supervision and probation.	√			√	√		√	√
2.6 Review and establish processes to protect victim address and location information from disclosure as open court records information.			√	√		√		

	Mission, purpose, & function	Concepts and theories	Rules & regulations	Administrative Practices	Resources	Education & training	Linkages	Accountability
2.7 Assess the need for and availability of <i>certified</i> court interpreters.			√	√	√		√	√
2.8 Assess options for monitoring/recording court room activity in relation to communication between offenders and audience.			√	√			√	
2.9 Explore options for providing child care for court proceedings.	√			√	√		√	
2.10 Reexamine the purpose and intent of the “media room,” particularly as it relates to safe space for victims of battering during court proceedings.	√			√	√			
2.11 Explore how court processes could be revised to improve case participants’ and observers’ understanding of actions and orders, while also meeting court operational needs.	√			√	√	√	√	√
3.1 Explore establishing consistent and standardized guidelines to assist in making decisions to lift, modify, or deny individual requests to lift pretrial no-contact orders, drawing on available research and contributions of survivors of battering.	√			√		√	√	√
3.2 Explore establishing a dedicated docket or venue for victims who request to lift the no-contact condition of pretrial release.	√	√		√	√		√	√
3.3 Examine the benefits and possible unintended negative experience of requiring that a victim meet with a designated advocate, particularly in cases of significant danger, prior to a judge hearing her request to lift a no-contact condition.		√	√	√	√		√	
3.4 Establish protocols related to linking and strengthening victim advocacy involvement across intervening agencies in a domestic violence case.	√	√		√	√	√	√	√
3.5 Review and assess process related to use of the District Attorney’s Office victim input packet and follow-up when victims do not respond.	√			√	√		√	
3.6 Review current practices related to on-site advocacy response to an incident of domestic violence.	√	√		√	√	√	√	√
3.7 Establish policies for Justice Sanctions’ staff regarding victim contact and input in domestic violence, taking into account the need for training, experience, and links with community-based advocates related to understanding domestic violence and danger assessment.	√		√	√	√	√	√	√
3.8 Examine whether the identified victim in the case and agencies such as DART could be part of the Justice Sanctions’ release of information .	√			√	√		√	
3.9 Provide further training for staff of intervening agencies involved in processing domestic violence cases and expand community education related to the purpose and intent of advocacy resources (i.e., the focus of advocacy should not be to convince or encourage a victim to leave the relationship).	√	√		√		√	√	
4.1 Increase awareness between intervening agencies related to how linkages between agencies can better enhance victim safety and offender accountability.	√			√		√	√	√
4.2 Establish or refresh policies and/or guidelines related to establishing and tracking linkages between agencies working with victims and offenders.				√		√	√	
4.3 Review the process for distributing the DART active cases list and provide education to recipients on how it can be used and for what purposes.				√		√	√	
4.4 Ensure that a process is in place for all intervening agencies to have law enforcement reports available at the time of pretrial release assessments and/or prior to the offender’s initial appearance.				√	√	√	√	
4.5 Explore how agencies in multiple jurisdictions with close proximity can improve communication, documentation, and overall linkages				√	√	√	√	√

	Mission, purpose, & function	Concepts and theories	Rules & regulations	Administrative Practices	Resources	Education & training	Linkages	Accountability
related to victim and offender involvement.								
4.6 Explore how linkages with Family Court can be strengthened.	√			√			√	
4.7 Review and assess processes related to victim notification when offenders violate pretrial release conditions in domestic violence cases.				√	√		√	√
4.8 Explore how conditions of Justice Sanctions and Diversion could reach intervening agencies, including law enforcement and the jail.				√	√	√	√	
4.9 Review processes for victim notification related to an offender's release from custody, paying particular attention to the time line of the release and notification attempts.	√			√	√		√	√
4.10 Survey all intervening agencies to assess current data collection practices and capacity for tracking domestic abuse cases and response at each point of case processing.				√	√	√	√	
4.11 Explore options for discovering victim/witness intimidation in domestic violence cases, including monitoring offender phone calls while incarcerated.	√			√	√		√	√
5.1 Conduct training for law enforcement on assessing predominant aggressor and articulating those decisions in incident reports.		√		√		√		√
5.2 Explore establishing a case review process in prosecution of dual arrest cases that more fully accounts for predominant aggressor considerations and safety for victim defendants.		√		√	√			√
5.3 Explore establishing a dedicated position to review and monitor domestic violence cases, particularly where there are instances of multiple violations of pretrial release and/or new domestic-related offenses.	√			√	√			√
5.4 Review the use of domestic abuse assessments in case dispositions.	√	√		√	√			√
5.5 Review the process for reaching plea agreements particularly related to safety and accountability, including improving victim input and documentation of dangerousness factors.	√			√	√			√
5.6 Reexamine the purpose, function, and agency representation and participation in the weekly domestic violence case review meeting convened by the District Attorney's Office.	√	√		√			√	√
5.7 Review the protocols related to and the diversion review process and contracts with offenders.		√		√	√		√	√
5.8 Explore options for dispositions involving offenders with multiple open domestic violence cases.				√	√	√	√	√
5.9 Utilize the Coordinated Community Response Task Force to define <i>accountability</i> and establish how accountability should be incorporated into domestic violence case processing [including offender to victim; intervening agency to victim; and practitioner to practitioner].	√	√		√	√	√	√	√
5.10 Conduct further training on battering as a pattern crime for agencies intervening in domestic violence cases.		√				√	√	

**See the complete report for a detailed discussion of the findings and recommendations**  
Available from the Domestic Violence Intervention Project, (608) 785-7670