

Securing Buy-in from Prosecutors and Judges

PRESENTED BY
RHONDA MARTINSON, J.D.

Acknowledgement

*Building a Coordinated Community Response to Domestic Violence
Trainer Guide*

Co-authored by Michael Paymar, Ellen Pence and Graham Barnes

For Praxis International

Strategies for an Effective CCR

STRATEGICALLY CONFRONT SYSTEM PROBLEMS

BUILD RELATIONSHIPS

RUN MEETINGS

UNDERSTAND AND WORK WITH RESISTANCE

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What Organizers Need to Know

Building relationships

Be aware of your assumptions across cultures

Acknowledge sexism and racism

Keep battered women's stories central

Go where the door is open

Don't embarrass people

Acknowledge the complexity of the issue

Think strategically

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Building Relationships

Identify community allies for ideas and assistance

Educate yourselves on the organization where the problem is

Get to know the key people in the organization

Work to build long-term relationships

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Three Kinds of Practitioners

Resisters

Status quo bureaucrats

Allies

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What is the Problem?

How is the problem impacting victim safety?

What is the extent of the problem?

What is the source?

Has the problem been documented?

Is the problem a single incident or a broader pattern?

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What Do You Want to Change?

Will the change enhance victim safety or offender accountability?

Will the change make the system more accountable?

Could there be unintended consequences?

Is the goal realistic?

How will success be measured?

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Planning for a Meeting

Anticipate how the administrator thinks

Acknowledge the tendency for the administrator to defend their staff

Recognize that you may lack credibility in her/his eyes

Consider who should be at the meeting

Prepare and develop your message

Remember the change process in incremental

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Finding Solutions

Create a positive meeting environment (bring snacks!)

Clearly state the objectives of the meeting

State a willingness to keep meeting to resolve the problem

State the problem

Does the administrator agree there is a problem?

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Finding Solutions CONTINUED

Don't make claims you can't back up

Stay focused, but be flexible and open to criticism

Clarify differences and areas of agreement

Do you need more information, research or documented cases?

Brainstorm ideas and solutions in a way that advocates and administrators can work together

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Questions

Comment on a contentious conversation you've experienced at a CCR meeting.

What was helpful in diffusing conflict?

What was unhelpful?

How would you handle that situation today?

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Video Clip

Focus group of battered women who were charged and convicted of using illegal violence against their partners

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Imagine:

The advocate and her director going right to the prosecutor's office – upset – and having this meeting with the deputy prosecutor:

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Director: There's an increasing problem – women getting charged for using self defense against their husbands and boyfriends who are beating them.

Advocate: It seems like officers and prosecutors aren't probing what happened and are just going after the person who seemed to have inflicted injury.

Deputy Prosecutor: If this is this case, we would have a problem. I could talk with my attorneys and some officers and see what their perception is. If there's a problem, I'm sure we'll identify it.

Director: If they looked into it they'd see these are battered women who are resisting abusive husbands and boyfriends.

Deputy Prosecutor: It's possible, but attorneys and officers are trained in investigation. I'll look into it. The question I have is how do you know this is a widespread problem? You talked about an increasing problem and I'd like to know what evidence you have.

Advocate (agitated): We've been hearing more stories from women in our groups.

Deputy Prosecutor: Like I said, I'll look into this. I'll meet with my attorneys.

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Questions

1. How effectively did the advocates present the problem?
2. What undermined their credibility?
3. What could have been done differently?

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Exercise: Preparing for a Meeting

Develop a strategy, analyze case files and document cases before calling a meeting:

Review reports at your tables

Generate list of concerns

Discuss nature of problems – what needs improving?

Come up with strategy for meeting to resolve issues

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Next Steps

What will you do in this meeting?

What points will you make?

How will you use the case files?

What are some of the elements of your solution?

Who should be at the initial meeting?

What might the resistance to your position be?

How will you deal with it?

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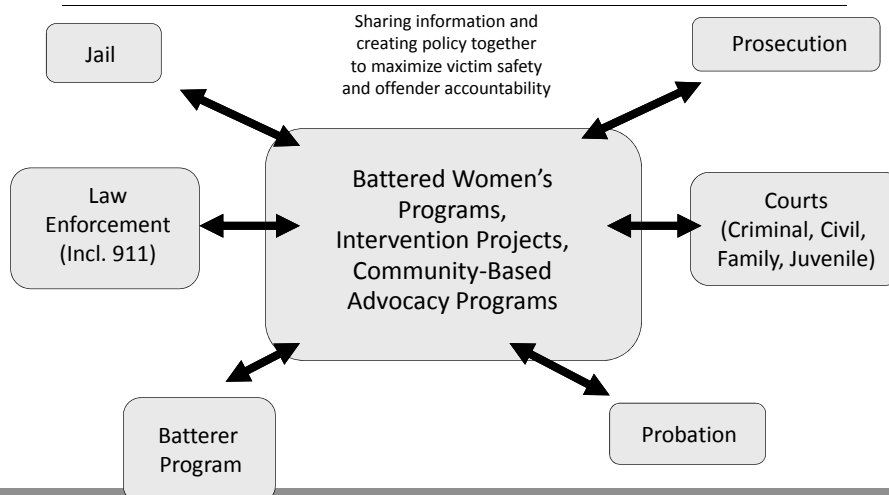
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The Role of System Advocacy

IN MAKING CHANGES IN THE SYSTEM
IN TAKING A LEADERSHIP ROLE IN A CCR

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Coordinated Community Response (Criminal/Civil Justice System)



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Coordinated Community Response

An interagency effort to change the climate of tolerance of battering by institutionalizing practices and procedures that centralize victim safety and offender accountability in domestic assault-related cases

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Goals of Intervention

Enhancing victim safety and well-being

Eliminating offender's opportunities and inclination to abuse

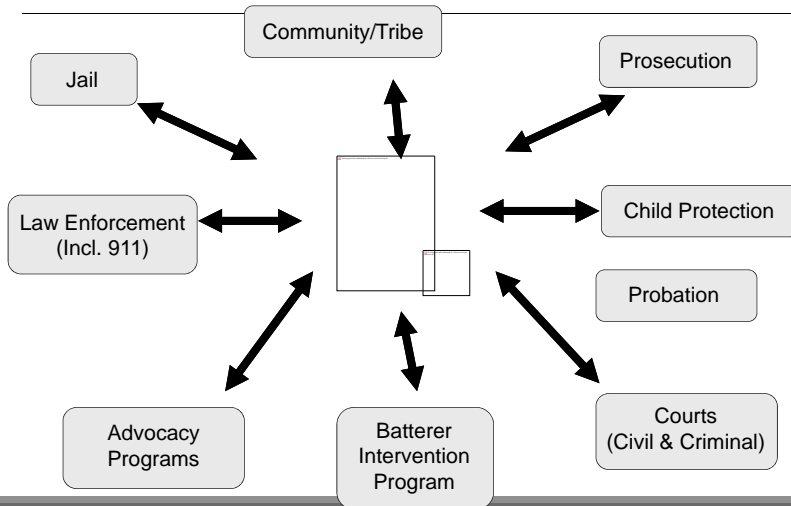
Ensuring system accountability and responsibility

Changing the climate of tolerance to violence against women and children

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Accountability to Battered Women and Their Children



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Questions

Do you have examples of well-intentioned initiatives to assist victims that had unintended negative consequences?

How can you ensure that victim advocacy plays a role in your CCR?

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Accountability for Battered Women's Programs

What does it mean for battered women's programs to be accountable to battered women and their children?

What are the ways we can collude negatively with prosecutors and judges?

How do you know whether a practice is helpful or harmful to battered women and their children?

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Accountability to Battered Women

Recognize and support women's autonomy/native women's sovereignty

Include battered women in defining and solving problems

Change the system, not the victim

Assure her confidentiality when possible; account for risk when not

Make a clear commitment to her safety

Act on her behalf

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Examples of Collusion

Attempting to change the victim

Pressuring her to cooperate more with the system

Not pursuing needed system change because of pressure from practitioners in the system

Prioritizing the image of the battered women's program over the needs of women

Increasing efficiency of the system, arrests, and convictions rather than focusing on the needs of battered women

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Effective Advocacy in a CCR

1. Understand:
 - The steps in case processing
 - Battered women's needs at each step
 - Methods that organize the worker at each step
2. Design advocacy interventions to meet her needs
3. Identify response concerns
4. Intervene with the system on behalf of individual women
5. Identify what could organize the worker more effectively on behalf of all battered women
6. Work to change the system to better meet all victims' needs

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Review: Ways to Identify Problems

1. Listening to battered women, collecting their experiences
 - Surveys and questionnaires
 - Informal focus groups, interviews, preparing summary reports
2. Meeting with practitioners
3. Reviewing practitioner texts
 - That guide practitioner responses
 - That result from practitioner responses
4. Tracking/monitoring
 - Collating data, preparing reports, case studies

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Audio Clip

State v Peacock

Sentencing hearing

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Questions for Small-Group Discussion

What will we do in this meeting?

What points will we make?

How will we propose a solution?

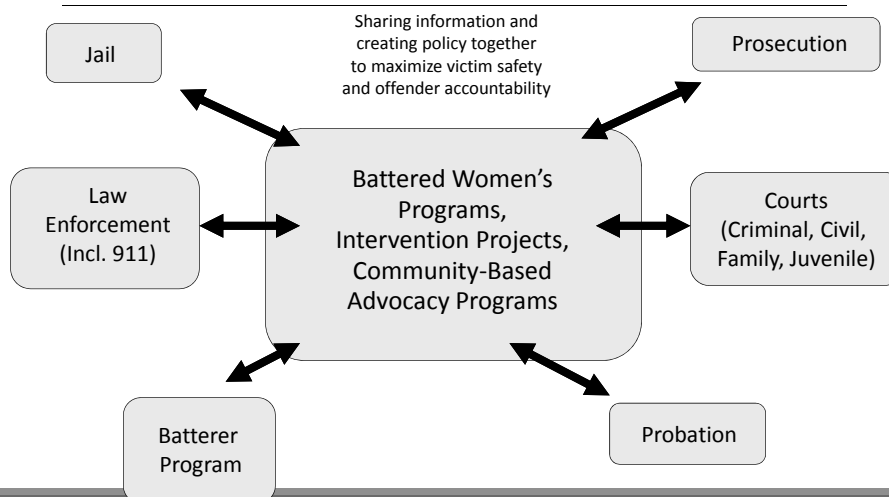
Who should be at the meeting?

How will we deal with resistance?

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Review: Coordinated Community Response (Justice System)



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Prosecution: More Than Getting Convictions

EXAMINE HOW PROSECUTORS CAN:
WORK WITH VICTIMS
INTRODUCE EVIDENCE
TAKE A BROAD VIEW OF PROSECUTION

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"Taking This to Trial Doesn't Help Me"

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What Should the District Attorney Do?

Drop the charges

What if the man refuses to attend a batterers program but will continue seeing his counselor?

Subpoena her and proceed

If you choose this option, will you charge and/or incarcerate her if she fails to testify?

Defer prosecution until the man completes counseling

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Exercise: Collaborating with Agencies

Read "Jennifer and Todd" scenario at your tables, and discuss:

What are the collateral consequences of arresting each party?

Should a prosecutor take these into account when making decisions?

With what organizations, agencies or allied professionals could a prosecutor collaborate to inform such decisions? To address collateral consequences?

How might such collaboration identify risk factors?

How might this collaboration impact the prosecution?

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The Role of the Prosecutor

Seeking justice in domestic assault cases

Working with victim advocates

Prioritizing victim safety

Charging cases

Using discretion for battered women who use violence

Holding defendants accountable

Drafting and implementing domestic violence prosecution policies

Collaborating within a CCR

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Sentencing and Monitoring

EXAMINE HOW COURTS CAN MANAGE OFFENDERS ON SENTENCES THAT ADDRESS DANGER WHILE COLLABORATING WITH BATTERER PROGRAMS AND VICTIM ADVOCATES.

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Goals of Intervention

Victim safety and well-being

Eliminating offender's opportunities and inclination to abuse

System accountability and responsibility

Changing the climate of tolerance to violence against women and children

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Coordinated Community Response

An interagency effort to change the climate of tolerance toward battering *by*:

Institutionalizing practices and procedures centralizing victim safety and offender accountability in domestic assault cases

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Building Victim Safety into Your Community Response

What problems do you have with the way this Pre-Sentence Investigation was conducted?

What other information would be useful to determine whether the victim was in danger?

What changes to this worker's job might have made this PSI more effective?

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Mr. Peterson's Trial, Part 1

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What a Standard PSI Provides

Good record check

Quick assessment of the defendant's attitude

Basic information about the defendant

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What a Standard PSI Misses

Harm that was done to the victim

Types of violence used against the victim

Danger this person poses to the victim

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Pre-Sentence Investigations

PSI making citizenship central

- Identification of parties
- Family
- Marital status
- Employment/income
- Education
- Military history
- Physical and mental health
- Defendant's statement and attitude
- Prior record
- Legal status

PSI making violence central

- Level of violence in this incident
- Past pattern of abuse
- Victim's perception of danger
- Defendant's attitude toward victim and incident
- Defendant's social history
- Criminal record and protection order history
- Impact on children/safety

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Characteristics of DV Cases

Assault is almost always part of an ongoing pattern of abuse, not a single event or even a series of violent incidents

Offender can have significant power over the victim

Offender typically has complex relationship with victim

Offender has ongoing access to victim

Offenders frequently retaliate against victims for leaving, taking action, changing things

Victims are often not free to communicate fully about what is happening to them

Victims are not likely to engage in hostile actions against the offender

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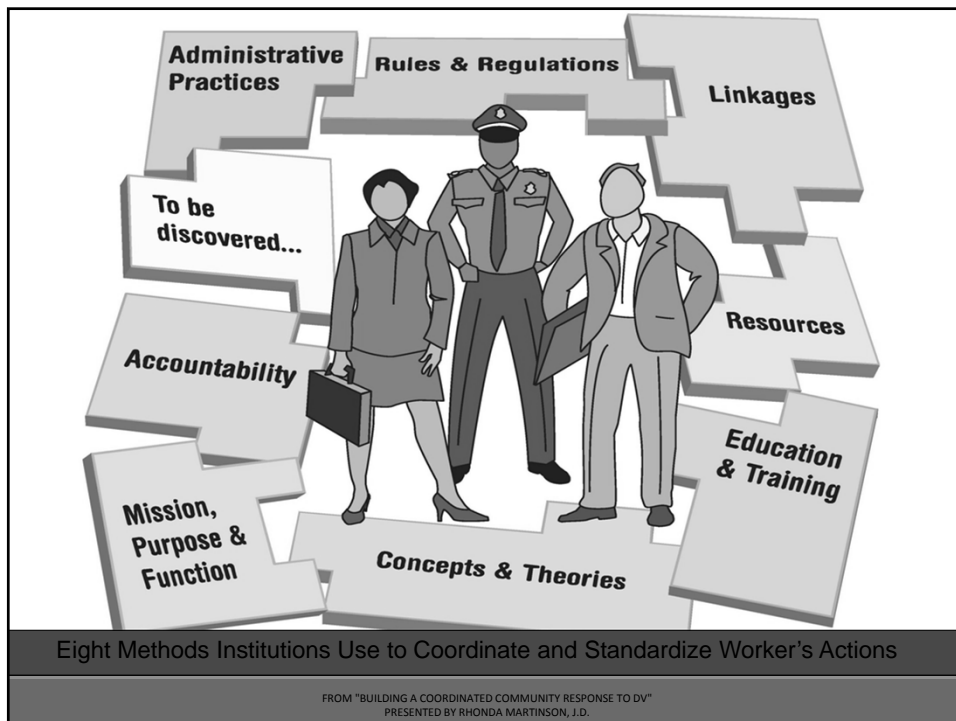
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Mr. Peterson's Trial, Part 2

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The focus of change is not on the individual worker.

The focus is on what organizes and coordinates workers to think and act.

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Rules and Regulations

State Statutes

Federal Mandates

Court Rules

Agency Policies and Procedures

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Administrative Practices

Institutionalization of practices are instructions to practitioners about how to carry out their work

- How much do supervisors observe and coach?
- How are new staff trained?
- To what extent do the practices centralize victim safety?

Resources

Are there enough staff and resources for staff to do their jobs without compromising:

- Victim safety
- Offender accountability
- Jail space
- Batterers intervention programs
- Legal representation for clients
- Shelters for women
- Groups and support for victims
- Manageable caseloads
- Time to do the work
- Training in domestic violence, diversity, etc.

Concepts and Theories

What are the underlying concepts of the work?

How is the probation officer's thinking and personal practice shaped by the concepts?

Concepts, theories, assumptions, and philosophical frameworks are embedded in institutional process

Linkage

How are the many practitioners responsible for the case linked?

What are the informal/formal rules between agencies?

Are linkages unified or fragmented by different concepts/theories?

Are the agencies connected through a file or the context of the victim's life?

How do the linkages affect victim safety?

How could CCR coordination improve victim safety?

Mission, Purpose, and Function

Mission refers to the overall goals of the organization

Purpose refers to specific processes within the mission

Function refers to the specific steps practitioners take as they do their jobs

Example Mission Statement

Mission: Affecting Lives by Reducing Crime

Arrowhead Regional Corrections Affects:

Offenders through assessment, supervision, treatment, and sanctions which are provided in a fair and respectful manner.

Victims by assisting and supporting them within the criminal justice system.

Communities by enhancing public safety, sharing knowledge, promoting positive social change and by collaborating with other community resources to achieve mutual goals.

Example Mission Statement

NZ Department of Corrections mission statement:

The Department of Corrections manages offenders on sentences and orders imposed by Courts and the Parole Board. Corrections contributes to safer communities by protecting the public and reducing re-offending.

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Accountability

Hold offenders accountable for the harm they have done to victims

Hold practitioners accountable for the safety and well-being of victims

Hold practitioners accountable for the due process of offenders

Hold practitioners accountable to other interveners in the system

Hold agencies accountable to other agencies

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Education and Training

How the probation office organizes workers to understand their jobs.
Does it tie to theory?

Is there a formal way agencies train the workers to think and act about cases?

Informal training?

Ongoing skill building

- Role-plays
- Tied to evaluation?

Wrap Up

Identify a victim safety or offender accountability issue you'd like to take up with your local prosecutor's office or court system.

What relationships would be helpful to draw on or to support you?

What additional information or investigation would be important?

What initial steps can you identify in planning a meeting, creating an agenda, etc.?

Thank You



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