

Blueprint for Safety Equity Assessments

Saint Paul, Minnesota

The question

Is application of Minnesota State Law permitting courts to issue a pretrial or post-conviction Domestic Abuse No Contact Order (DANCO) having a disproportionate impact on young African American men?

Why this question?

The DANCO is enforceable by warrantless arrest and punishable as a misdemeanor. Subsequent arrests for violation, however, can be enhanced as felony-level crimes. There is the possibility that a defendant can commit a low-level misdemeanor assault, be subject to the terms of a DANCO that the victim of the assault may not want, and subsequently be prosecuted as a felon, even if the victim wants contact and no further violence occurs. The defense bar and probation raised the concern that DANCO enforcement has a disproportionate impact on young men of color, resulting in felony convictions and potential incarceration for violations of no contact orders that do not involve new acts of violence. They reported concerns that young African American men were being convicted of DANCO violations and sent to prison even though they did not commit further acts of violence, but rather were found with the victim with her consent (via traffic stops or “knock and talks”).

Who was involved in answering the question?

A small group of practitioners and advocates composed of probation, prosecution, community-based advocates, the Blueprint Coordinator, and Praxis International.

What strategies were used to answer this question?

An ad-hoc, practitioner-advocate work group was convened to conduct focus groups of survivors, review available statistical data, and conduct two case reviews, including probation presentence investigation (PSI) reports containing survivor wishes about the issuance of a DANCO and probation supervision case records involving DANCO convictions.

Data Gathered

Tool	Detail
Data-Gathering: Numbers	City and county population by race; probation and incarceration populations by race.
Learn from Victims	Three (3) focus groups with victims of battering where a DANCO was issued (11 participants).
Learn from Community Experts	Group discussion with probation staff.
Case Review	<p>The work group relied primarily on case reviews for this analysis. They decided to start with probation files because all cases involving a conviction for a DANCO violation would have been referred there, and thus it would be possible to identify all cases with a DANCO conviction.</p> <p>Probation identified 48 cases referred to their office during an 8-month period, 10/26/14 to 6/26/15. 18 were felony cases, and the rest were misdemeanor or gross misdemeanor cases.</p>

Analysis/Discovery

The work group examined 48 cases to test the hypothesis that young African American men were ending up with felony convictions and/or in prison for DANCO violations when they had not committed additional levels of violence, and that this result was disproportionate, when compared to white defendants. Key points of analysis included:

- Age and race of defendants
- Level of conviction (misdemeanor, gross misdemeanor, or felony)
- Sentencing: executed prison time, stayed prison time, or probation
- Whether the victim initiated the call for help when the defendant was arrested for the DANCO violation
- Whether the violation involved additional violence

Analysis of the 48 probation supervision cases involving DANCO convictions revealed that:

- 18 of the cases involved felony convictions. Of the 18 felony convictions:
 - 55.5 percent involved African American defendants, though they are 16 percent of the population
 - 17 percent involved Hispanic/Latinx defendants, though they are 9.7 percent of the population
 - 28 percent involved white defendants, though they are 57.4 percent of the population
- 8 defendants received prison sentences; 6 of which were executed sentences. Of the 6 who received executed prison sentences, 3 defendants were African American, 2 white and 1 Hispanic/Latinx.
- 7 of 8 felony DANCO violations resulting in prison sentence included additional violence. Of the 6 sent to prison, all had a significant history of violence.
- In 16 of 18 felony cases (89 percent), the defendant had a significant history of violence against the same or another victim.
- In 19 of 48 (40 percent) DANCO violation cases, the victim called 911.
- In 12 of 18 (67 percent) felony conviction cases, the victim called 911.

Focus group participants did not feel listened to when DANCOs were issued over their objections. They recognized that pressure or coercion from the defendant was a factor but felt more pressure from the criminal legal system than the defendant.

- It wasn't clear that the DANCO felt protective to any of the participants. "He can kill me with or without it." "Law enforcement is trying to 'catch' him rather than looking out for my safety."
- Participants understand that the offender may re-assault them, but they were making the decision to stay in the relationship anyway.
- Prosecutors often see DANCO violations as an easier route to conviction than assault. This strategy suggests that the violation of the court's order is more important than the assault itself. The violation against the state becomes more important than the violation against the person.
- Participants advised looking at DANCOs case-by-case and advised against a blanket response.

The working group did not find evidence that DANCO violations are sending more young men of color to prison absent other violence. It did establish an over-

representation of African American men and other men of color on probation in Ramsey County. African American men and other men of color are being convicted and sent to prison at higher rates than other men, proportionate to the population. This project did not uncover the structural elements that create or contribute to this disparity.

Next Steps & Reflections

What steps did Saint Paul take in response to what was learned?

Changes have been made so that “blanket” or automatic DANCOs are no longer routine. A team has drafted a process for victim-directed modification or cancellation of no contact orders to be considered by the court. Working groups will continue to conduct review of some of these cases to determine how many offenders are being charged with DANCO violations unrelated to new acts of violence and to examine more closely the risk to victims in such cases. However, the reality that African American men are over-represented by such a large percentage in the criminal legal system remains a significant concern. If the original hypothesis that DANCO violations are leading to felony conviction and prison sentences without further violence cannot be proven, then how does this inequity occur? What happens overall in domestic violence cases involving African American defendants? Are there other pathways by which African American defendants end up in prison or on probation when there is a low level of violence and contrary to victims’ wishes? To pursue these questions, the working group intends to follow a set of cases involving intimate partner violence from 911 through to final disposition and analyze the response at each point of intervention by race to see whether and how racial inequities are built in or otherwise magnified.

What successes were realized?

This was the first opportunity in the Saint Paul criminal legal system for an interagency group to come together to examine how racial disparity occurs. It does provide a partial answer for the questions of public defenders, probation officers, and others who perceive that non-violent African American offenders are being sent to prison for DANCO violations, if not definitive.

What limitations or challenges were encountered?

Although in the end it was not possible to determine definitively that the disproportionate rate of felony convictions and incarcerations is unrelated to continuing violence, it is indisputable that inequities exist. More work is needed to uncover the ways in which inequities are built into the criminal justice response that disproportionately draw men of color accused of domestic violence into the criminal legal system and how that intervention affects women of color who are victimized.