

Appendix 7A

Training Memo: Rehabilitation Program Considerations in Domestic Violence Cases

Since the 1970s, batterer intervention programs (BIPs) have emerged as a court response to domestic violence. As of 2007, the number of BIPs in the United States was over 2,000. More than 80% of participants are mandated by courts or probation.¹ The reasons for doing so vary: rehabilitation, reduction of re-offending, holding offenders accountable, or a combination of these. Consistent with the use of BIPs as a tool of accountability and monitoring is their role in a coordinated community response to domestic violence.² No single element of the justice system, victim assistance, or offender programming reduces domestic violence independently. Rather, the *coordination* of systems and policies works to keep individual victims safer, hold offenders accountable, and make intimate partner violence socially unacceptable.

What Kind of Program?

In all cases involving battering by the defendant, domestic abuse counseling or educational programs should be ordered if the defendant is being placed on probation.³ Programs using a cognitive-behavioral approach or an educational approach are preferred.

A cognitive-behavioral approach explores relationships among a person's thoughts, feelings, and behaviors. A BIP facilitator using this approach works with

¹ M. Labriola, M. Rempel, C. O'Sullivan, and P. Frank, with J. McDowell and R. Finkelstein, Chapter 1, *Court Responses to Batterer Program Non-compliance: A National Perspective*, a report submitted to the NATIONAL INSTITUTE OF JUSTICE: WASHINGTON, DC (2007).

² Ellen Pence and Martha McMahon, *A Coordinated Community Response to Domestic Violence*, DOMESTIC ABUSE INTERVENTION PROGRAMS: DULUTH, MN (1997).

³ Chapter 8, "The Bench," *The Blueprint for Safety: An Interagency Response to Domestic Violence Crimes*, PRAXIS INTERNATIONAL: ST. PAUL, MN (2010).

group participants to uncover unhealthy patterns of thought and how they may cause destructive behaviors and beliefs. By addressing these patterns, participants develop constructive ways of thinking that produce healthier behaviors and beliefs. Principles of a cognitive-behavioral approach are identifying negative or false beliefs, and testing or restructuring them. Participants in a BIP using this approach may have homework between sessions to practice replacing negative thoughts with more realistic thoughts based on prior experiences, or may record negative thoughts in a journal.

The Duluth, Minnesota, BIP uses an educational approach. The philosophical core is the belief that men who batter use physical and sexual violence and other abusive tactics to control their partners. This educational approach uses dialogue and critical thinking rather than traditional learning in which the teacher feeds the student information. Group participants don't simply repeat back what they assume facilitators want to hear but rather struggle with their beliefs about men, women, relationships, and entitlement. A central assumption of the curriculum is that nature and culture are separate. Men can change because beliefs about male dominance and use of violence to establish control are cultural, not innate. Facilitators engage men who batter in dialogue about their beliefs. Through exercises, group participants are immersed in critical thinking and self-reflection. They can understand the impact their violence had on their partners, their children, and themselves. A key teaching tool is the control log, which helps group members analyze their abusive actions and recognize their behavior as intentional and inextricably tied to their beliefs. It further helps men in the groups recognize that while in the short run their violence gets them what they want, in the long run it is self-defeating. Men who batter must decide to try to maintain the status quo or take necessary steps to change. Group facilitators teach skills through role-playing and other exercises to make participants aware that alternatives to violence exist. This is not a therapeutic curriculum and thus does not require facilitators to have extensive mental health qualifications.⁴

⁴ M. Paymar, E. Pence, and G. Barnes, "Working with Men Who Batter," *Building a Coordinated Community Response to Domestic Violence*, PRAXIS INTERNATIONAL: ST. PAUL, MN (2010).

Caveats:

- Anger management⁵ classes do not meet the requirement of ordering a domestic abuse counseling or education program for batterers being placed on probation. While anger management **skills** may have a place in groups for men who batter, they should not be the **purpose** of groups ordered for batterers. Anger may have preceded a violent act but the emotion is not the cause. A batterer's anger is connected to his belief about his partner not agreeing with him or not doing what he wants.⁶ Some states provide a fill-in-the-blank chart⁷ to compare the differences between local anger management and batter intervention programs with questions such as:
 - Are the programs state-certified and/or monitored by a state agency? Anger management programs typically are not.
 - Who is served by the programs? BIPs are for perpetrators of intimate partner violence. Anger management programs can be for a mix of participants who've engaged in different kinds of violence (intimate partner violence, family violence, stranger assaults, workplace aggression, etc.).
 - How long are the programs? Anger management programs are usually 8 to 20 sessions, with the average program being 10 sessions. Depending on the jurisdiction, certified BIPs are 26 to 52 weeks, with weekly sessions of two hours each.
 - Do programs communicate with victims and/or link with a domestic violence victim services program? Anger management programs do not. A certified BIP or its advocacy partner can – if the victim chooses - remain in regular contact with the victim and provide referrals, safety planning, and information to help protect children.

⁵ The goal of an anger management program or series of classes is to reduce a person's emotional feelings and the physiological arousal that anger causes. You can't get rid of or avoid things or people that enrage you, nor can you change them; but you can learn to control your reactions.

⁶ M. Paymar, E. Pence, and G. Barnes, "Working with Men Who Batter," *Building a Coordinated Community Response to Domestic Violence*, PRAXIS INTERNATIONAL: ST. PAUL, MN (2010).

⁷ See, e.g., *What's the Difference between Anger Management and Certified Batterer Intervention Programs*, created by the Batterer Intervention Working Group of the Governor's Commission on Domestic Violence and the Massachusetts Department of Public Health in 2004 and updated in 2012.

- Do programs assess individuals who abuse for dangerousness or lethality? Anger management programs do not. Certified BIPs at a minimum ask questions which reveal how potentially dangerous or lethal a person who abuses can be, such as if a gun is kept in the home or if there have ever been any convictions of other violent offenses.
 - What is the emphasis of the intervention? In anger management programs, violence is seen as a momentary outburst of anger; perpetrators are taught to use techniques like “timeouts.” Certified BIPs view physical, sexual, verbal, emotional and economic abuse, and violence as behaviors chosen by batterers to control their intimate partners. BIPs hold abusers accountable for their abusive choices, and teach them to recognize how their abuse affects their partners and children and to practice alternatives to abusive behaviors.
 - Are group facilitators trained about domestic violence? In anger management programs, any facilitator training is at the program’s discretion. In certified BIPs, state certification standards articulate training and group observation requirements for facilitators.
- Substance abuse counseling should not be ordered as a substitute for a domestic abuse counseling or education program for batterers being placed on probation. While substance use or abuse is a frequent **companion** to intimate partner violence, literature in the fields of domestic violence, criminal justice, social science, and offender management/programming has been consistent over many years in saying that substance use or abuse is **not the cause** of intimate partner violence. Ordering substance abuse counseling instead of a domestic abuse counseling or education program:
 - Reinforces erroneous or negative messages to the offender, the victim, and the public that the offender isn’t accountable for his actions but rather, “It’s the alcohol” or “It’s the drugs.”
 - Puts the offender in a program that doesn’t address the issue of the offender’s use of violence against his or her intimate partner.
 - In effect, labels or categorizes the case as “substance abuse-related” instead of “domestic violence-related,” which will affect other

conditions of sentencing and probation, will affect whether the victim is seen as a victim by subsequent interveners and service providers, and will affect whether the victim is offered periodic contact, safety planning, resources, or referrals.

- It is not appropriate to require marriage or couples counseling in cases where there has been battering. These approaches:
 - Endanger victims by placing them in the position of disclosing information that their batterers may use against them
 - Give batterers an opportunity to have contact with victims
 - Avoid fixing sole responsibility on the batterer
 - May implicitly blame the victim for the abuse, even when statements to the contrary are made by counselors
 - May reinforce power differences between family members
 - Can leave victims at a disadvantage⁸

“It takes two” is an example of the view that relationship dysfunction causes domestic violence, that couples “play off” each other, that either is able to stop the violence, and that both are responsible for it. Subscribers to the relationship dysfunction view would recommend couples counseling or relationship counseling separately.⁹ Those who endorse couples counseling while one person is still intimidating or using violence against another ignore risks of assaults following counseling sessions. Most psychologists and therapists who know domestic violence dynamics would concede that marriage counseling is ineffective if one party is a batterer and has power over the other. How can a victim be honest about what is happening in the relationship or talk about the violence when she fears retribution? BIPs are not against marriage or couples counseling, but only recommend it:

⁸ “Contra-indicated Modalities and Methods,” *Batterer Intervention Standards for the State of Michigan*, Governor’s Taskforce on Batterer Intervention Standards (1998).

⁹ M. Paymar, E. Pence, and G. Barnes, “The Influence of Theories and Concepts on Practitioners,” *Building a Coordinated Community Response to Domestic Violence*, PRAXIS INTERNATIONAL: ST. PAUL, MN (2010).

- After the offender has completed batterers' intervention programming
- When program facilitators, victim advocates, and court personnel are relatively sure violence has stopped, the victim is not being coerced or intimidated, and the victim is not fearful of her partner.¹⁰
- The defendant shouldn't be ordered to participate in programming that mixes men and women in the same groups. State certification standards for BIPs typically say that to model healthy egalitarian relationships groups should be **facilitated** by one male and one female facilitator, but that to most effectively deal with issues of gender and violence, groups for batterers should not include women as **participants**. Mixed groups might place women participants in danger, or disadvantage them, as they may be also dealing with issues of victimization by male partners.¹¹
- During sentencing, prosecutors and probation officers should not recommend and judges should not order victims who are not defendants to participate in programming. There is a range of theories and assumptions that exist among criminal justice professionals responding to domestic violence cases. Those who would recommend counseling for victims usually do so because:
 - They think victims are "choosing" batterers as partners, are masochistic, have low self-esteem, or are too weak to leave the relationship;
 - They see victims' behavior as provoking the violence; or
 - They believe if the defendant is to change and the victim does not, their relationship can't improve.

Such theories and assumptions:

¹⁰ Michael Paymar and Graham Barnes, *Countering Confusion about the Duluth Model*, DOMESTIC ABUSE INTERVENTION PROGRAMS: DULUTH, MN (2008), pp. 11-12, 21.

¹¹ See, e.g., "Modality," *Batterer Intervention Standards for the State of Michigan*, Governor's Taskforce on Batterer Intervention Standards (1998).

- Put criminal justice professionals in the position of ordering or expecting something of someone who is not under the jurisdiction of the court.
 - Are at odds with victim autonomy.
 - Work against safety for victims.
 - Work against accountability for offenders.
- During sentencing, prosecutors and probation officers should not recommend and judges should not order new programs without first investigating their appropriateness for individuals who have perpetrated intimate partner violence. What if:
 - A defendant requests an online program or individual counseling instead of a batterers' intervention group?
 - The jail offers an in-custody program?
 - The defendant requests a culturally-specific program or faith-based program?
 - It is uncertain whether to expect or whether appropriate for the local program to incorporate heightened attention to aspects of intimate partner violence that may not apply to all group members (stalking, intimate partner sexual assault, parenting issues, etc.)?

The questions, critical thinking, and analysis raised within the bullet points above about **common, currently existing** programs - anger management, substance abuse counseling, marriage or couples counseling, mixed-gender groups - will also be helpful in evaluating programming that is **new** to you or your community.

What Kind of Relationship between Programming and Probation?¹²

¹² Excerpted from Chapter 7, "Probation and Bail," *The Blueprint for Safety: An Interagency Response to Domestic Violence Crimes*, PRAXIS INTERNATIONAL: ST. PAUL, MN (2010).

In all cases involving battering by the defendant, domestic abuse counseling or educational programs should be ordered if the defendant is being placed on probation. The probation officer should ensure that the probationer signs releases which allow:

- Release of records
 - From probation to court-ordered programs and services
 - From court-ordered programs and services to probation
- Information sharing and discussion regarding attendance, indications of continued or escalating risk, and the offender's cooperation with the program
 - From probation to programs and services which the probationer has been court-ordered
 - From court-ordered programs and services working with the probationer to probation

The probation officer should:

- Refer the probationer to specialty programs appropriate to:
 - Severity of offense and risk posed by the offender
 - Whether the probationer was the object of an ongoing pattern of violence from the victim in this case
 - The probationer's cultural identity and social needs (to the fullest extent possible)
- Use:
 - Lengthier programs for higher risk probationers (though not necessarily more rigorous programs)
 - Programs that allow quick entry into programming, unless there is reason for delay which outweighs the beneficial effect of immediate programming
- Be aware of other risk needs that should be addressed to avoid ongoing criminality.
- Require probationers to attend assigned programs as soon as possible. If there is significant delay and an opening in an alternative group is available, require probationers to attend the alternative group while waiting to get into assigned programming.

- Provide rehabilitation programs with:
 - The presentence investigation, any history of domestic violence, and a summary of the sentence and probation conditions
 - Information regarding concerns that the victim asked probation to share
- Provide probationers with information regarding community and social service resources that would be helpful, though not required, to successfully complete probation.
- When sharing confidential information with treatment or other program providers, make clear that confidential information cannot be shared with the offender.
- Coordinate between the probationer and treatment programs or social service agencies to ensure programming fits the severity of the offense, risk to the victim (including secondary victims), and promotes compliance. Assist the probationer in entering and successfully completing rehabilitative services.
- Be cognizant of and responsive to situations and behaviors associated with increased risk of violence by probationers with mental health problems:
 - Not having access to or not using prescribed medication
 - Homelessness
 - Noncompliance with case management or other mental health programming
- Be cognizant of and responsive to situations and behaviors associated with increased risk of violence by probationers with drug and alcohol addictions or abuse:
 - Failure to maintain abstinence when use is associated with violence
 - Failure to complete treatment when use is associated with violence
 - Homelessness
- Conduct routine monitoring for:
 - Compliance with probation conditions
 - New no-contact orders, orders for protection, and police contact
 - Changes in life circumstances that might indicate risk
 - Alcohol and drug use if related to probation conditions or the victim's concern
 - Participation in and compliance with rehabilitation programming

- Whenever any of the following events occur, contact the victim to check on her or his safety:
 - Suspected violation of probation
 - Missing two program group sessions in a row
 - A new no-contact order
 - A new order for protection
 - A failed urinalysis or other test for the use of alcohol or other substances

What Response to Non-compliance?

Compliance monitoring¹³ is linked to both offender accountability and system accountability; it is inappropriate to consider compliance as an issue for BIPs alone. These programs facilitate monitoring by establishing tangible requirements (attendance, participation, completion, etc.) that the court can verify. When offenders are noncompliant, monitoring enables the court to promote accountability by swiftly identifying non-compliance and imposing sanction.

BIPs are part of the larger system of interests and agencies whose functioning as the coordinated community response is the most effective deterrent to domestic violence recidivism. BIPs have impact not because each individual attending them is changed, but because they are part of a greater pattern of consistent responses indicating that society deems battering a serious offense. One imperative of a coordinated community response is not to drop the ball. It is incumbent on courts not to become the hole in the safety net, or the place where offenders can escape consequences or manipulate the system. A zero-tolerance message cannot be sent if offenders regard attendance and compliance with court-mandated programs as optional. The courts have the power to respond to offender behavior and to send the message that domestic violence is unacceptable, thereby demonstrating to defendants and the larger community the seriousness with which the justice system views intimate partner violence. For this message to be credible, courts must not only **issue** but also **enforce** batterer program mandates by sanctioning those who are noncompliant. Enforcement is the linchpin to accountability.¹⁴

¹³ Courts seek to track the behavior of domestic violence offenders while a case is pending or after its disposition. Monitoring may be conducted by a judge or judicial hearing officer, or by probation.

¹⁴ M. Labriola, M. Rempel, C. O'Sullivan, and P. Frank, with J. McDowell and R. Finkelstein, Chapters 1-2, *Court Responses to Batterer Program Non-compliance: A National Perspective*, a report submitted to the NATIONAL INSTITUTE OF JUSTICE: WASHINGTON, DC (2007).

Working with Men Who Batter, and Holding Them Accountable

The effectiveness of BIPs depends on:

- Strong advocacy for victims.
- The cohesiveness of agencies in the criminal and civil justice systems in monitoring participants' progress in the program.
- Swift consequences for violating court orders or committing any further acts of violence.
- Clear philosophy underlying the program model that provides a path for men who batter to make a change.¹⁵

Holding batterers accountable for violence perpetrated against their intimate partners, and for changing their behavior, requires:

- Work with coordinated community response partners to prioritize speedy entry of offenders into programs.
- Building and monitoring referral agreements not only with the criminal justice system but also with mental health providers and the child protection system.
- The provision of culturally-specific programs.
- An orientation for BIP participants that focuses on violence, and a curriculum for BIP participants that focuses on stopping violence, safety, and the autonomy of the victim and family members.
- An orientation for victims whose partners are sent to BIPs.
- Effective victim contact in liaison with victim advocates.
- Identification of batterers' manipulation of custody issues and informing victims and/or advocates of risks.
- Regular BIP attendance reports to courts or referral agencies.
- BIP compliance with state standards.
- Work with advocates and coordinated community response partners to closely monitor the most dangerous offenders.

¹⁵ M. Paymar, E. Pence, and G. Barnes, "Working with Men Who Batter," *Building a Coordinated Community Response to Domestic Violence*, PRAXIS INTERNATIONAL: ST. PAUL, MN (2010).

- Regular observation of BIPs by coordinated community response partners.
- BIP participation in public awareness campaigns.¹⁶

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¹⁶ *Improving Batterer Accountability within your Coordinated Community Response*, a chart created by Graham Barnes, Resource Specialist, Battered Women's Justice Project, and presented at the 2015 conference of the Batterer Intervention Services Coalition of Michigan.