



REPORT OF THE
MANHATTAN DISTRICT ATTORNEY'S

DOMESTIC
VIOLENCE
INITIATIVE

*Recommendations to Combat Domestic Violence
in New York City*

October 2016

A Message from District Attorney Cyrus R. Vance, Jr.

Thank you to everyone who worked on this Domestic Violence Initiative, especially those who committed countless hours participating in working group sessions convened by my office over the last two years. The recommendations in this report and the improvements that will result from their implementation will transform the lives of innumerable New Yorkers and would not have been possible without the wisdom and experience brought to this initiative.

The prevalence of domestic violence is not just a criminal justice crisis. It is a national public health crisis that affects all neighborhoods and communities, and threatens our most vulnerable family members, particularly women and children. In 2015, the NYPD responded to nearly 33,760 domestic violence incidents in Manhattan—that's more than 92 incidents each day.

Because of the seriousness of intimate partner violence and the tendency of perpetrators to become more violent as time passes, New York City and State officials have undertaken a variety of reforms targeted at this crime and other forms of domestic violence. In 2010, I created the Special Victims Bureau as a way of centralizing oversight of this critical set of cases. And in 2014, we opened a Manhattan Family Justice Center to integrate essential services for domestic violence victims under one roof, after successful advocacy from my office and others. Working with our partners in Albany, in 2012 the Legislature enacted the Aggravated Domestic Violence Law, which created a new felony-level crime for perpetrators who have been previously convicted of certain DV crimes within a five-year period. The law took effect in early 2013 and as of October 1, 2016, 394 individuals have been charged with committing the new crime, of which 353 cases have been concluded. There were 254 that ended in a plea or conviction. Sixty-nine percent of those charged under the new law were convicted of a crime, a much higher rate than the typical domestic violence misdemeanor. Even more striking, nearly one-third of those charged under the new law ultimately pleaded guilty to a felony.

Yet despite efforts targeted at preventing these crimes, domestic violence has resisted the trend of declining crime in New York City. It takes a tremendous amount of courage for survivors to come forward, and as a society we must do everything we can to provide resources and support for them. The roots of this problem are numerous and diverse. That's why we recognize that in order to respond effectively to domestic violence, we need to work together—across systems, with multiple partners at the table sharing their experiences, knowledge, and recommendations. And that's what we have done here. Thanks to the participation and efforts of numerous community-based service providers and stakeholders, we have developed a set of recommendations—informed by community experiences to improve the way we address domestic violence in our city. Thank you again to all those who participated.

Cyrus R. Vance, Jr.
Manhattan District Attorney

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EXECUTIVE SUMMARY

INTRODUCTION

Starting in mid-2014 DANY brought together experts and practitioners from every sector involved in addressing the domestic violence crisis, and in particular the problem of intimate partner violence. We worked with representatives from more than 50 local agencies and entities, including victim service agencies, hospital-based and community-based organizations, and criminal justice organizations. We also consulted with nationally and internationally renowned experts, organizations, and researchers.

The group made recommendations in nine priority areas:

- Prevention and Education;
- Community-Based Interventions;
- Engaging the Immigrant Community;
- Hospital-Based and Other Medical Interventions;
- Family Court;
- Offender Accountability and Engagement;
- Law Enforcement;
- DANY and Criminal Court; and
- Legislation.

The law enforcement component included collaboration pairing DANY executives and key domestic violence staff with NYPD counterparts to develop and execute technological, operational, and educational strategies to enhance law enforcement's response to domestic violence.

In the fall of 2014, DANY also launched the Criminal Justice Investment Initiative (CJII) to invest asset forfeiture funds in projects to improve public safety, develop crime prevention efforts, and promote fairness and efficiency in the criminal justice system. As to CJII domestic violence projects, DANY is working with the CUNY Institute for State and Local Governance (ISLG) to develop a strategy to invest funds and assist in the implementation of innovative programs.

ISSUE AREAS AND RECOMMENDATIONS

Although the common definition of domestic violence in New York State (NYS) is very broad—including, for example, violence between siblings, between parents and children, and between other family members who are not intimate partners—we chose to focus this Initiative exclusively on intimate partner violence (IPV), defined as any pattern of coercive and abusive behaviors of one person in an intimate relationship against the other. Thus, hereafter, the term “domestic violence” in this report, except as to legislative suggestions and unless otherwise noted, should be understood as referring exclusively to IPV. We include under this definition any current or former intimate relationship, regardless of the gender identity, sexual orientation, age, and marital or cohabitation status of either party.

The following review of the problems and recommendations in each of the nine areas creates a roadmap for tackling domestic violence.

I. PREVENTION AND EDUCATION

The group focused on (a) efforts by schools to convey healthier attitudes about relationships, including dating-violence-prevention programs, (b) the education of school staff members so that they know how best to respond to indicia of domestic violence, and (c) improving public information and awareness campaigns about domestic violence and sexual violence. With respect to such campaigns, the working group looked both to traditional media and new application of social media and other technologies to communicate violence-prevention strategies. The working group recommends that:

Recommendations for Prevention and Education

1. In collaboration with the New York City Human Resources Administration (HRA) and the Mayor's Office to Combat Domestic Violence (OCDV), the New York City Department of Education (NYC DOE) should expand its "Healthy Relationship" prevention and education program for all public school students starting no later than middle school. DANY will work with NYC DOE, HRA, and OCDV to support this additional programming, including but not limited to the Relationship Abuse Prevention Program (RAPP), which places social workers in schools to provide direct services and training to students and staff.
2. In collaboration with OCDV, DANY will explore working with the NYC DOE to provide citywide domestic violence training and support to ensure public school teachers, parent coordinators, guidance counselors, school nurses, and school safety officers receive comprehensive training in how to recognize signs of abuse.
3. NYC should implement a new coordinated public service advertising campaign targeting domestic violence. It should include television and radio ads, development and/or promotion of smart phone and tablet applications for victims, and social media campaigns. This effort should include placement of domestic violence prevention and education materials in community and government waiting rooms and restrooms, including within DANY spaces and in medical facilities.
4. In collaboration with MOCJ, OCDV, and other city agencies, DANY will explore working with outside parties to develop and implement a smart phone app for victims of domestic violence to provide information and facilitate access to services, to support ready access to copies of orders of protection for reference in the event of future incidents, and to encourage domestic violence reporting more generally.

II. COMMUNITY-BASED INTERVENTIONS

Victims may seek help from community-based organizations prior to or instead of engaging with law enforcement. Community programs, including victim support groups, shelters, and other community organizations, are therefore crucial to a coordinated response to domestic violence. The working group recommends that:

Recommendations for Community-Based Interventions

1. New York City should continue to add domestic violence shelter beds, especially for single women without children, for women with teenage male children, and for male and transgender victims.

2. New York City Housing Authority (NYCHA) should consider (a) simplifying eligibility requirements for domestic violence victims making initial applications to public housing, as well as applications for emergency transfers necessitated by domestic violence and (b) expediting the time frame for both processes.
3. Community-based organizations and law enforcement should work together to expand access to services for those not fluent in English through use of additional interpreters and through online telephone translation services.
4. DANY will explore funding for American Sign Language Interpreters (ASL) for community-based programs serving victims of domestic violence and sexual assault.
5. Community programs should make facilities accessible to the disabled/handicapped.
6. Community programs should enhance service availability for LGBTQ (Lesbian, Gay, Bisexual, Transgender and Queer or Questioning) victims.
7. City agencies should host quarterly DV roundtables so that community-based organizations and agencies, law enforcement, and stakeholder groups can collaborate effectively in managing services to victims and facilitating the implementation of initiative recommendations.
8. OCDV and community-based organizations and agencies should provide ongoing training for Assistant District Attorneys (ADAs), NYPD, and criminal and civil court judges and staff on the dynamics of domestic violence and the effects of trauma on family and victim safety.

III. ENGAGING THE IMMIGRANT COMMUNITY

Even in light of low reporting rates, it is clear that incidents of domestic violence within the immigrant community are disproportionately high. Batterers often take advantage of a victim's social, cultural, political, or linguistic isolation. Many immigrant victims, particularly those who are undocumented, are financially dependent on their partners and extended family; they also often lack familiarity with local law enforcement, and, based on their experiences in their countries of origin, fear local law enforcement. Often, immigrants do not understand the distinction between the local police and Immigration and Customs Enforcement. The working group recommends the following:

Recommendations for Immigrant Engagement

1. DANY and city partners will develop and implement ongoing criminal justice domestic violence training for service providers who work with immigrant communities, including sensitivity training for point-of-contact persons, such as security officers and receptionists.
2. DANY and OCDV will expand training for and partnership with foreign consulate staff.
3. DANY and OCDV will continue to hold trainings on domestic and sexual violence for the local foreign language press to foster efforts of community-based organizations and the media to educate immigrant and non-English-speaking victims about domestic violence.

4. DANY should work with the NYPD and OCDV to encourage the use of web-based interpreter applications in multiple languages to supplement interpreters and to provide information about the criminal justice process and the availability of services.

IV. HOSPITAL-BASED AND OTHER MEDICAL INTERVENTIONS

Victims of domestic violence may seek medical and mental health care for injuries and symptoms resulting from domestic violence. Such victims may disclose their abuse to medical providers multiple times before they ever contact law enforcement or other legal system representatives.

The working group recommends the following:

Recommendations for Hospital-Based and Other Medical Interventions

1. DANY, in collaboration with OCDV, will work closely with professionals from NYC hospitals, clinics, and urgent care centers to:
 - a. develop a new enhanced standardized screening and assessment tool to be disseminated to medical and mental health providers and programs;
 - b. train hospital and other healthcare personnel, including staff at clinics and doctors' offices, on using the domestic violence screening tool; and
 - c. establish referral pathways to Family Justice Centers and other resources.
2. DANY will provide medical and mental health staff (including emergency medical technicians) with training on forensic photography and medical record documentation related to domestic violence.
3. DANY will encourage hospitals to post domestic violence materials in hospital waiting rooms and restrooms, encouraging victims to disclose such violence to medical professionals.
4. DANY will explore collaborating with the New York City Fire Department (FDNY) to train Emergency Medical Service (EMS) staff on the value of evidence collection.

V. FAMILY COURT

Many domestic violence victims seek civil orders of protection against abusers in Family Court, or participate in divorce, child custody, child visitation, alimony, or child abuse proceedings in that court. Yet, Family Court may present particular problems for domestic violence victims:

- Abusive partners may attempt to use Family Court proceedings to maintain access or coercive control over victims.
- The physical configuration of Family Court may create difficulties for domestic violence victims, because they may have to share entryways and waiting rooms with batterers.
- Despite widely available educational and training resources on the intersection of child welfare and abuse with domestic violence, working group members reported that some

Family Court judges, clerks, attorneys, guardians ad litem, and custody evaluators may not give due consideration to these dynamics.

- Members reported that application of the family law principle of the “best interests of the child,” may give too much weight to access to both parents as the ideal for children, and give too little weight to the adverse consequences on children of domestic violence.

In light of the foregoing problems, the working group recommends the following:

Recommendations for Family Court

1. Family Court judges, attorneys, forensic evaluators, attorneys for children, clerks, and court officers should receive ongoing training on domestic violence and trauma so that they can make more informed decisions about the best interest of each child.
2. Video conferencing and e-filing options should be expanded in Family Court and NYC Family Justice Centers to keep victims and abusers apart during court proceedings.
3. Family Court should offer evening hours to accommodate working families.
4. Family Court should consider creating more supervised visitation centers.
5. Certified interpreters should receive training on lawyer-client privilege, domestic violence, child abuse, and victim safety.
6. DANY and the NYPD should explore whether NYPD domestic incident reports and photographs may be made more accessible to victims and Family Court attorneys.

VI. OFFENDER ACCOUNTABILITY AND ENGAGEMENT

Holding batterers accountable for their actions and changing their attitudes and behavior are key components to addressing domestic violence. While some traditional models of batterer intervention programs (BIPs) have been ineffective, new trauma-informed programs are being developed to address the underlying problems of those who commit relationship violence, with mediation and restorative justice models meeting with some success.

Shifting the focus from BIPs, working group members cited a need for increased communication between parole and probation officials and DANY to foster collaborative decisions regarding parolees and probationers. Other concerns include: 1) the potential danger to victims arising from an over-reliance on victim testimony at parole and probation revocation hearings; 2) the unfamiliarity of some judges presiding over parole and probation relocation hearings with domestic violence issues; 3) too lenient sanctions for batterers who fail to complete programs or violate conditions of probation and/or parole; and 4) the inadequate resources for training of those involved in probation and the parole component of the NYS Division of Corrections and Community Supervision (DOCCS).

The working group recommends that:

Recommendations for Offender Accountability and Engagement

1. DANY will spearhead and fund the development of new, evidence-generating batterer intervention programs in collaboration with community-based organizations. DANY

contemplates implementing this recommendation through a grant program, administered through the CUNY ISLG, for the design, implementation, and evaluation of innovative BIPs, particularly trauma-informed programs.

2. DANY will explore working with the NYC Department of Probation to increase accountability and supervision of batterers, and in collaboration with OCDV will train probation staff on the dynamics of domestic violence and effective interventions with batterers.
3. DANY should work with the DOCCS parole staff to provide training on evidence-based prosecution and resources to increase sanctions for batterers and to curtail reliance on victim testimony at hearings. DOCCS should explore new models of parole supervision that incorporate swift and graduated sanctions.
4. DANY will explore incorporating domestic-violence-specific elements into current inmate reentry forums for violent offenders and create separate reentry forums for defendants convicted of domestic violence offenses.

VII. LAW ENFORCEMENT

Law enforcement is often the gatekeeper of access to services, and is in the best position to ensure that a batterer will be held accountable. Many of the recommendations in this section focus on the use of technological strategies, but person-to-person contact with victims is essential. Rigorous data-analysis methods must be explored to identify and target the most dangerous domestic violence offenders.

The working group recommends that:

Recommendations for Law Enforcement

1. Subject to approval by the federal monitor, all NYPD officers responding to domestic incidents should use body cameras to enhance evidence collection, and capture victim injuries, demeanor, excited utterances, property damage, and defendants' physical condition and statements.
2. NYPD should utilize a risk assessment system to identify at-risk victims and the most violent offenders.
3. The NYPD will expand city-wide its current program of placing culturally sensitive advocates trained in domestic violence at select precincts.
4. DANY, in collaboration with MOCJ, is funding a \$1.1 million pilot in the 23rd Precinct where violent domestic violence incidents are met with a Child Trauma Response Team (CTRT) of police officers and mental health professionals. Using a program delivered by Safe Horizon, the pilot coordinates an immediate, trauma-focused response, specifically aiding children and linking them to critical services. If the program proves to be successful, it should be replicated throughout the city.
5. NYC and DANY will explore the use of information-sharing, evidence-collection, and emergency-notification technology funded by the DANY CJII. This should include:

- a. Upgrading all emergency phones provided to domestic violence victims to include caller ID and global positioning system (GPS) capability.
 - b. In cases in which alcohol appears to be an aggravating factor, using alcohol-monitoring bracelets to track the sobriety of domestic violence offenders.
 - c. DANY and NYPD training in utilization of alternative light source technology that can capture below-the-skin bruising to memorialize and corroborate victim injuries that would not ordinarily be visible to the naked eye.
6. NYPD officers and FDNY Emergency Medical Service, with DANY and OCDV participation, should receive ongoing training centered on evidence-based prosecution and trauma-informed responses to domestic violence incidents.

VIII. DANY AND CRIMINAL COURT

Domestic violence cases face many challenges in Criminal Court. High dismissal rates, congested court dockets, long adjournments, witness tampering by batterers, inconsistent compliance with sentences, and a need for training at all levels, are long-standing issues. A vital asset for the Special Victims Bureau and Domestic Violence Unit is DANY's Witness Aid Services Unit, known as WASU, which provides a variety of court-related services, social services, and counseling services to domestic violence victims and helps facilitate victim cooperation in the criminal prosecution. DANY already has taken significant steps to ensure that all ADAs and support staff are trained and culturally competent to work with diverse victims.

Issues in Criminal Court that need to be addressed range from following proper procedures to ensure that domestic violence defendants are unable to purchase firearms, to ongoing training for judges on the complex legal issues surrounding these cases. There is also a need for greater institutional efficiency such as shorter court adjournments and faster case resolution.

To address this range of issues, the working group recommends the following:

Recommendations for DANY and Criminal Court

1. DANY should implement trauma-informed training for all ADAs, including distribution and enforcement of official domestic violence protocols.
2. DANY domestic violence cases will continue to be overseen by experienced practitioners and specialists. DANY will explore staffing assignments for all domestic violence cases and consider having the most serious cases prosecuted by experienced ADAs with specialized training.
3. The Office of Court Administration (OCA) should continue ongoing training in both the dynamics of domestic violence and surrounding legal issues for all Criminal Court judges, as well as for court staff, and collaborate with prosecutors and the defense bar on trainings involving relevant domestic violence issues. DANY recommends that the Mayor's Office to Combat Domestic Violence develop and implement a citywide training institute.
4. NYC should develop and utilize a validated risk assessment tool to identify high-propensity batterers; DANY and NYPD should collaborate to add such defendants to priority lists and arrest alerts.

5. Courts should adjourn cases for shorter periods (e.g., two weeks in lieu of 30 days or more) to resolve cases more efficiently.
6. Courts should adopt protocols for sanctioning DV offenders who fail to complete BIPs and/or probation.
7. DANY will create an internal Manhattan Domestic Violence Fatality Review Committee to evaluate, review, and develop recommendations to improve law enforcement coordination and responses to reports of domestic violence.
8. DANY will request restitution in appropriate cases and work with Safe Horizon to ensure that domestic violence victims are appropriately compensated.
9. DANY and courts should improve protocols for misdemeanor crimes of domestic violence (MCDV) including:
 - a. 100 percent adherence to the required notice protocol in eligible cases, as well as all domestic violence felonies;
 - b. DANY's continued training of all ADAs who handle domestic violence cases on MCDV plea requirements and, in the absence of defendant admissions as to the qualifying relationship, the need to attempt to prove those relationships in court; and
 - c. An assessment by DANY of past cases with missed MCDV designations to determine how to avoid future missed designations and to determine whether steps may be taken to remedy past deficiencies.
10. DANY will work with partners to create a mobile phone application to provide victims of crime with access to services, information about their cases, and electronic copies of court documents. DANY will collaborate with NYPD to use iPADS to obtain electronic signatures on supporting depositions.

IX. LEGISLATION

Working group discussions revealed significant gaps in the statutory tools to combat domestic violence. Several suggestions for legislative recommendations have been discussed and proposed to correct some deficiencies in the law. The six problem areas discussed relate to:

- prosecutors' difficulty in obtaining records of prior cases, sometimes including active orders of protection;
- the required dismissal of misdemeanor charges when a defendant is found pursuant to Criminal Procedure Law (CPL) § 730 to be an incapacitated person not fit to stand trial;
- statutory caps on misdemeanor sentences regardless of the number of offenses committed;
- current statutes penalizing witness tampering and intimidation that fail to deter such actions;

- the need for legislation that contemplates the use of modern technology in stalking cases and in enhancing the penalty for such actions that are part of a course of conduct; and
- the dangerous gaps in legislation intended to remove firearms from the hands of batterers.

To address these six problems, the working group recommends the following:

Recommendations for Legislation

1. A legislative amendment to enable prosecutors to access sealed records of prior domestic violence cases if the offender commits a new domestic violence offense so that appropriate contempt charges can be prosecuted for violations of past orders.
2. A legislative amendment that (1) permits the reinstatement of criminal charges should a misdemeanor defendant later become fit to stand trial”; and (2) amends CPL § 730.50 so that an indictment charging a crime less than a felony need not be dismissed if the defendant is found unfit.
3. Enhanced sanctions for repeat family offenders, namely: A) The addition of a subsection to the existing Aggravated Family Offense, PL § 240.75, whereby three or more specified misdemeanor offenses committed within a period of six months may be charged as a felony. B) A legislative amendment creating a new First Degree “Aggravated Family Offense” as a D felony level crime, for defendants who commit a specified family offense after having been previously convicted within a five-year period of committing two or more of any of a group of specified prior offenses against a member of his or her family or household. The existing E felony “Aggravated Family Offense” (requiring only one prior conviction) would become Aggravated Family Offense in the Second Degree.
4. Creation of a new felony of “Tampering With A Witness On A Family Offense” for *any* attempt to induce or compel a person not to testify truthfully in a proceeding involving relationships designated as family offenses under CPL § 530.11. To reduce incentives to tamper, the working group proposed that sanctions would be the lesser of either the crime charged in the pending proceeding or a C Violent Felony.
5. Increased penalties for Stalking by one degree, so that Stalking in the Fourth Degree would be an A Misdemeanor, Stalking in the Third Degree an E Felony, and so forth. Additionally, “place of business” should be defined to include internet accounts, social media, and email addresses designated as business accounts.
6. Institution of compliance mechanisms to ensure that batterers ordered to surrender their firearms do so, enhancement of penalties for possession subsequent to mandated revocation, and expansion of the category of convictions that revoke firearms licenses in NY to include all offenses specified under Aggravated Family Offense PL § 240.75.

CONCLUSION

Dealing with domestic violence effectively means both addressing the needs of the most vulnerable victims and also making an effort to face and change deeply embedded social norms and values. The tremendous undertaking involved in the DANY Domestic Violence Initiative has renewed the multi-disciplinary collaboration by experts to explore existing problems and work towards a better process

for survivors, abusers, service providers, and government agencies. In every working group and every stakeholder conversation throughout the DVI information-gathering process, experts expressed the need for these conversations to continue and the need for advanced ongoing training for the many involved stakeholders.

It is clearer than ever that a truly coordinated community response is required to address the issue of domestic violence in New York City. We call upon our partners across city agencies, in law enforcement, in the health care system, and within NYC communities to work with us in implementing the recommendations outlined here. It is our hope that implementation of the DVI recommendations will result in an improved criminal justice process that deals effectively with abuse, that provides victims with greater redress and safety, and that ultimately leads to a substantial reduction in the incidence of domestic violence.

I. INTRODUCTION

Incidents of domestic violence continue to increase even as rates of other types of crime have dropped across the nation. Domestic violence is a long-standing, ongoing problem that seems to resist traditional models of law enforcement engagement. Millions of people are affected each year, costing society billions in health care, lost wages, and traumatized lives. Often conceived of as a reoccurring cycle perpetuated generationally, these costs can be extrapolated exponentially. Worse still, there is currently no evidence to indicate that this trend will not continue.

To address this crisis, the criminal justice system needs new strategies for dealing with intimate partner violence. Just as intelligence-driven prosecution aimed at violent street crime has driven down crime rates, a data-driven approach to domestic violence can be more effective than the historical one-size-fits-all approach to such crimes. Collaboration among stakeholders and specialist experts can aid in a transition to more-focused law enforcement methods, to enhanced prosecution of the most dangerous offenders, and to the development and evaluation of targeted programs aimed at the diversity of situations, victims, and perpetrators.

Initially, the differences inherent in the term “domestic violence” must be recognized and addressed. As discussed below, it includes violence between intimate partners (the type of domestic violence addressed in this report) and also violence among other relatives and household members. But beyond even that distinction, domestic violence encompasses a broad range of behavior. Physical abuse can range from recurrent minor episodes to more serious assaults to murders. It may or may not include rape or other sexual assaults. Emotional abuse can involve a course of psychological manipulation or coercive control without even the threat of a physical blow or it can involve a series of assaults or worse. And financial abuses can accompany any of these other abuses. Within any given relationship, even when incidents seem isolated and distinct, they exist within the framework of the relationship as a whole.

For too long, the problem of domestic violence has been addressed through general non-specific terms and overbroad syndromes. Uniform “solutions” have been applied to a field made up of situations as individual as the people affected. It is not enough to know that this type of crime often includes behavior that is more like systemic torture than simple assault. And even when incidents seem isolated and distinct, they exist within the framework of relationships that are unique and complex. A “one-size-fits all” model has historically been utilized to develop protocols that respond to a spectacularly broad spectrum of conduct. It has not worked. The differences inherent in the term “domestic violence” must be recognized and addressed.

The narrative of “domestic violence” needs to change to reflect that this is *not* one problem with one solution, but rather, many types of issues balanced and weighed differently in each case, requiring different approaches. It is not that “the problem” is insurmountable; it is that there are many types of problems that require specialized sophisticated assessments and responses.

A. Organization and Methodology

In 2010, the Manhattan District Attorney’s Office established the Special Victims Bureau (SVB) as a means of enhancing the training, supervision, and coordination of resources applied to prosecuting complicated cases involving some of the city’s most vulnerable victims. The bureau includes the leadership of DANY’s Domestic Violence Unit (DVU). Its mission includes reducing crimes against intimate partners through sophisticated prosecution by highly-trained prosecutors devoted to protecting victims and committed to holding the perpetrators accountable. The DVU applies a multi-

disciplinary approach to assist victims by working with advocates, social workers, and counselors. Common metrics used to gauge “prosecutorial success” tend to indicate that the unit has been successful. Rates of indictments, convictions, and serious sentences are all higher than they were five years ago. Yet despite this, reports of new incidents of domestic violence are also higher, even as other types of violent crime have seemed to drop.

In 2014, DANY established the Domestic Violence Initiative (“DVI” or “Initiative”) in a concerted effort to address the frequency and severity of domestic violence crimes. The idea was to bring together experts and practitioners from every sector involved in the problem to assess the issues methodically and collaborate on recommendations to reduce the occurrence of domestic violence in New York City. In the course of this work, DANY collaborated with other city agencies and community partners and experts to develop a set of best practices and recommendations to improve the way New York City responds to domestic violence and to prevent it from happening.

DANY established working groups to focus on brainstorming recommendations related to domestic violence in the following nine priority areas:

- Prevention and Education;
- Community-Based Interventions;
- Engaging the Immigrant Community;
- Hospital-Based and Other Medical Interventions;
- Family Court;
- Offender Accountability and Engagement;
- Law Enforcement;
- DANY and Criminal Court; and
- Legislation.

These focus areas were developed based on conversations with representatives and experts from various domestic violence survivor service agencies, hospital-based and community-based programs, and criminal justice organizations and researchers within the city, nationally, and internationally.

The law enforcement component included a process to enhance DANY and NYPD collaboration. Participants sought to reduce significantly the occurrence of delineated crimes by developing and executing collaborative strategies and by compiling a wish list of strategies—technological, operational, and educational—to enhance law enforcement’s response to domestic violence. These recommendations are described in this document within the discussion of the law enforcement best practices working group.

Lastly, in the fall of 2014, DANY launched the CJII to invest asset forfeiture funds in transformational projects to improve public safety, develop broad crime prevention efforts, and promote a fair and efficient criminal justice system across New York City. Within CJII, DANY has prioritized a number of areas, including domestic violence. As a part of this process, DANY plans to dedicate significant resources to reduce drastically the prevalence of domestic violence and to respond more effectively when domestic violence crimes occur.

These efforts coalesced as the DANY Domestic Violence Initiative and collectively shaped the writing of this report. This report is structured in three main parts. First, it outlines a definition of domestic violence for the purposes of this study and recommendations, followed by background information

about the goals of the Initiative. Second, the report describes emerging domestic violence issues and trends, including a series of recommended next steps for each of the nine issue areas listed above.

Finally, the reports ends with conclusions followed by appendices. Appendix 1 includes the list of those who participated in our information-gathering process. A series of additional appendices includes supplementary resources, such as process charts and summaries of research on batterer intervention programs and other topics.

B. Domestic Violence

Domestic Violence Defined

For the purposes of this report, the term “domestic violence” (DV) refers only to intimate partner violence (IPV). We include under this definition any current or former intimate relationship, regardless of the gender identity, sexual orientation, age, or marital or cohabitation status of either person involved.

We recognize that this definition of DV as IPV is narrower than the common definition of DV in New York State.¹ Although this report includes all of the violence within that range of intimate relationships, past and present, it does not include, for example, violence between siblings or violence between parents and children or other household members who are not intimate partners.

Further, the term “violence” in this context refers to any pattern of coercive and abusive behaviors of one person in said relationship against the other. This definition includes a broad spectrum of conduct. At one end is intimate partner violence in the form of coercive controlling behavior, *i.e.* a pattern of intentional, pervasively abusive violence by one partner against the other to instill fear and achieve power and control.² In some such relationships, physical and/or sexual violence is constant and severe. However, more often, physical abuse by batterers is either “frequent but non-injurious,” or assaults are sporadic, and the defining component of the domestic violence is control, extreme jealousy, isolation, and intimidation.³

Non-physical abuse can still have devastating effects. Isolation of victims in particular can “prevent disclosure, instill dependence, express exclusive possession, monopolize their skills and resources, and keep them from getting help or support.”⁴ Given their systemic nature and far reaching effects in this context, criminal acts dealing with all levels of verbal threats, control of financial or legal documents, rights of access to housing, child care issues, and other behaviors not traditionally construed as “violent” by the legal system are subsumed under the heading of IPV.

¹ Pursuant to the Expanded Access to Family Court Law of New York, effective in 2008, domestic violence refers to designated family offenses committed by and against members of the same family or household and persons who are or have been in an intimate relationship. The current law includes “persons who are or have been in an intimate relationship, even if they have never lived together, or were never related by blood or marriage, or never had a child in common. This includes heterosexual or same-sex dating couples, including adolescents and teens.”

² See Kuennen (2007); New York State Office for the Prevention of Domestic Violence (2004); Pence & Dasgupta (2006); Stark (2007); Mederos, Gamache & Pence (2005); Stark (2012); and Kelly & Johnson (2008).

³ Stark (2007) p. 62.

⁴ Stark (2012) p. 11.

Intimate Partner Violence – Affected Populations in General

Intimate partner violence is a national epidemic: it occurs across all social and economic strata; racial, ethnic and religious groups; and ages.

Perpetrators: In general, it can be difficult to separate reporting rates from actual incident rates. In a similar vein, domestic violence reporting may be higher in urban settings due in part to the relative proximity of neighbors and family members. Though some national crime statistics suggest that batterers are more likely to be unemployed and undereducated, this data also reflects populations for whom police reporting is greater, or for whom domestic violence incidents may be more severe thus increasing the likelihood that abuse is reported by victims, neighbors, or other sources.

Overall, the “vast majority of credible researchers in sociology, criminology, and public health confirm that men commit the most serious intimate partner violence.”⁵ Of those cases reported to law enforcement, males represent approximately 80 to 85 percent of perpetrators.⁶ Other than gender, there is no clearly delineated domestic violence perpetrator demographic.

Batterers do have a few behavioral and cognitive similarities. Most batterers feel entitled to and possessive of “their” victims, are manipulative, narcissistic, controlling, and both minimize and deny abuse.⁷ Furthermore, most batterers believe that abusive or violent behaviors are justified and strategic, and are willing to act on violent threats to achieve their goals.⁸ Many male batterers assume strict beliefs and positions regarding gender roles—“old fashioned” views about a woman’s or a wife’s role versus her male counterpart.⁹ But many men with these beliefs are not abusive.

A small portion of domestic violence perpetrators chronically engage in other criminal behaviors and are violent generally.¹⁰ Batterers who are violent outside their intimate relationships are considered particularly dangerous and potentially more likely to murder their victims.¹¹ Still, the majority of DV offenders are “average citizens,” no more or less likely to have criminal backgrounds.¹² Again, reporting rates skew our perception of batterers, as those who are criminally deviant in other ways are more likely to be reported and arrested for domestic violence related offenses than those who do not otherwise come to the attention of law enforcement.¹³

Victims: Likewise, victimization is not confined to any particular race or ethnicity, geographic location, economic class, level of education, religion, culture, age, or community. Intimate partner violence is ubiquitous. But here too, it is difficult to distinguish victimization rates from reporting rates.

⁵ See Katz (2006).

⁶ See New York City Domestic Violence Fatality Review Committee (2015); Campbell (2001); Bancroft (2002); Truman & Morgan (2014); Stark (2007); Stark (2012); Campbell et al (2003); and Family Violence Prevention Fund (2008).

⁷ See Bancroft (2002); Kaser-Boyd (2004); Johnson (2008); Pence & Dasgupta (2006); and Larance (2007).

⁸ See Johnson (2008); Pence & Dasgupta (2006); Stark (2012); Bancroft (2002); Stark (2007); Jones (2000); and Kuennen (2007).

⁹ See Bancroft (2002); Katz (2006); Funk (2006); Browne (1987); Stark (2007); and Frederick & Lizdas (2003).

¹⁰ See Norwood, Jouriles, McDonald & Swank (2004); Stark (2007); and Klein (1996).

¹¹ See Block (2003); and Campbell et al (2003).

¹² See Katz (2006); and Bancroft (2002).

¹³ See Katz (2006); and Bancroft (2002).

The 2000 National Violence Against Women Survey found that more than 29 percent of African American women, 23 percent of Hispanic women, 37 percent of Native American/Alaskan Indian women, and 15 percent of Asian/Pacific Islander women, compared to more than 24 percent of white women had experienced domestic violence in their lifetime.¹⁴

Data suggests reporting rates are higher in certain demographics. For instance, multiple sources report that persons age 18 to 24 comprise the majority of victims of domestic violence nationwide and across all racial and ethnic groups.¹⁵ In the United States, one in four women experiences an abusive intimate relationship at least once in her life,¹⁶ and one in three teen girls is emotionally, physically and/or sexually abused in a dating relationship.¹⁷ In the United States, domestic violence is the most common cause of injury to women ages 18 to 44.¹⁸

But domestic violence victimization is not limited to females, or to heterosexual couples.¹⁹ Male and lesbian, gay, bisexual, and transgender victims of domestic violence are significantly less likely to report abuse than heterosexual female victims; still, of those domestic violence cases reported to law enforcement, 84 to 86 percent of the victims are females and more than three quarters of the perpetrators are males.²⁰

Compared to white women, black women are 35 percent more likely to report domestic violence,²¹ and rates within the Native American and immigrant communities (regardless of documentation status), are even higher.²²

A national study from 1997 found that more than 60 percent of women with physical disabilities had been physically, sexually, or emotionally abused in their lifetime, a rate similar to women without disabilities.²³ Male partners (e.g., current or former spouses, live-in boyfriends, or dating partners) were the most common perpetrators of physical and emotional abuse. According to the research, women with disabilities are more likely to be abused by multiple perpetrators over longer periods of times than women without disabilities.²⁴ Deaf women experience rates of domestic and/or sexual violence

¹⁴ See Tjaden & Thoennes (2000) p. 26.

¹⁵ See Truman and Morgan (2014); U.S. Department of Justice, Bureau of Justice Statistics (2005); and American Bar Association, *Domestic Violence Statistics* (n.d.).

¹⁶ See Centers for Disease Control and Prevention (2008).

¹⁷ See Davis (2008).

¹⁸ Pearl (2013).

¹⁹ See Murray & Mobley (2009); and Carvahlo, Lewis, Derlega, Winstead & Viggiano (2011).

²⁰ See statistics from U.S. Department of Justice, Bureau of Justice Statistics (2008); *National Crime Victimization Survey: Criminal Victimization, 2007*; and U.S. Department of Justice, Bureau of Justice Statistics (2005); *Family Violence Statistics: Including Statistics on Strangers and Acquaintances*.

²¹ See Bobbit, Campbell & Tate (2006).

²² See Women of Color Network (2006); Campbell et al (2003); Family Violence Prevention Fund (2008); Fetzer & Fernandez-Lanier (2008); Truman & Morgan (2014); and Durose, et al (2005).

²³ An individual with a disability is defined by the Americans with Disabilities Act as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

²⁴ See Young, Nosek, Howland, Chanpong & Rintala (1997); Nosek, Howland, Rintala, Young & Chanpong (2001); Gilson, Cramer & DePoy (2001); Hassouneh-Phillips & Curry (2002); and Nannini (2006).

equal to or higher than their hearing counterparts, with emerging research pointing to rates twice that of hearing women.²⁵

Domestic violence is the leading cause of death of African American women ages 15-45, and transgender women of color represent a substantial proportion of domestic violence homicide victims—14 percent of those homicide victims in 2012.²⁶ Furthermore, domestic violence is a leading cause of death and injury to pregnant and postpartum women, as well as death and injury to fetuses.²⁷

Severe and fatal domestic violence is reported more often in low-income communities and among non-white persons.²⁸ Immigrant women are murdered by their male partners at disproportionate rates; in fact, one study of femicide in New York City between 1995 and 2002 reported that foreign-born women represented more than half the total of those murdered by intimate partners, a rate starkly disproportionate to their percentage of the population.²⁹

Domestic Violence - Reporting Rates

With reporting rates of less than 30 percent, domestic violence is one of the most underreported crimes in the United States.³⁰ The majority of victims do not report to law enforcement; when domestic violence is reported, it is typically either after several incidents have occurred, or after a particularly severe assault. For one-fifth of persons murdered by an intimate partner, the homicide was the first and only act of physical violence reported.³¹

Domestic violence victims do not necessarily call police for the same reasons. Some report to police when they urgently need a violent incident to cease; others want to maintain the relationship and are hopeful that police intervention will deter the batterer from continued abuse, and some want to end the abusive relationship entirely and remove the batterer from their lives.³²

There are many reasons why victims of domestic violence do not report abuse to law enforcement.³³ Principal reasons include fear of retaliation by the perpetrator; belief that police reporting will not

²⁵ See Vera Institute of Justice, Center on Victimization and Safety (2015).

²⁶ See the National Coalition of Anti-Violence Programs, Intimate Partner Violence and Transgender Communities Fact Sheet (n.d).

²⁷ See Gazmararian (2000); Parsons (2000); Chang, Berg, Saltzman & Herndon (2005); and Frye (2001).

²⁸ See Catalano (2012); Catalano, Smith, Snyder & Rand. (2009); Futures Without Violence website; New York City Domestic Violence Fatality Review Committee (2015); Women of Color Network (2006); Gazmararian (2000); Parsons (2000); Chang et al (2005); and Frye (2001).

²⁹ See New York City Department of Health and Mental Hygiene (2004).

³⁰ See Klein (2009); Felson & Pare (2005); Durose et al. (2005); Anderson et al. (2003); Block (2003); Finn (2004); Koss (2000); Long (2008); Jones (2000); and Davies, Lyon & Monti-Catania (1998).

³¹ See Block (2003); and Klein, A. (2009).

³² See Davies (2009); Hamby (2009); Stark (1996); Stark (2007); Frederick & Lizdas (2003); Jordan (2004); Koss (2000); Larance (2007); Weitzman (2000). An important point made by Evan Stark, however, is that calling the police “is a function of the opportunity to do so (not necessarily of the severity of an incident).” See Stark (2007).

³³ See Buel (1999); Anderson et al. (2003); Browne (1987); Carvahlo et al. (2011); Dasgupta (2007); Douglas & Hines (2011); Davies (2009); Davies (2002); Griffing et al. (2002); INCITE! & Sudbury (2005); Kanuha (2005); National Judicial Education Program. (2010); Stark (1996); Jones (2000); Rana (2012); Dutton & Painter (1993); Griffing et al. (2002); and Horsburgh (2005).

result in meaningful change or safety; fear of losing custody of children; fear of losing financial and other sources of support from the batterer; and fear of punitive responses from law enforcement and/or immigration services. This latter fear is particularly relevant among immigrants who fear deportation or victims who have been threatened with arrest or child abuse reports by the perpetrator.

Police reporting is also a function of ability; victims may not be able to contact law enforcement (due to language barriers, disability, or extreme danger) or understand that this is a viable option.³⁴ Reporting rates for domestic violence are particularly low among immigrants, persons with disabilities, males, and transgender persons—persons for whom there are fewer resources, or for whom access to such resources is limited. Persons with disabilities are twice as likely as non-disabled persons to experience domestic violence but remain in abusive relationships, and are significantly less likely—or less *able*—to report.³⁵

It is also significant to note that there are deep emotional and psychological components to many of these cases; victims who love and care for their abusive partners may avoid notifying police to protect the batterer or preserve the relationship between the abusive partner and their children. Victims frequently minimize aspects of their victimization, even when reporting does occur.

Victims can be ostracized or criticized by their families or communities for having disclosed domestic violence, especially if community members fear societal and political repercussions following the disclosure.³⁶ Victims of domestic violence within some communities—defined by religion, race, country of origin, sexual orientation, or gender identity—may avoid police reporting to protect their community from “looking bad.”³⁷ Victims within communities in which police and community members have had historically tense relations may be reluctant to engage with law enforcement and some may, in fact, be criticized for this engagement.³⁸

Given the shame and stigma routinely associated with domestic violence, numerous victims refuse or delay police reporting.³⁹ Similarly, it is common for victims to disclose some elements of their victimization but not others—particularly those that are perceived as shameful, such as sexual victimization—a phenomenon frequently referred to as partial reporting.⁴⁰

Reporting domestic violence is no panacea. Throughout Criminal and Family Court proceedings, many batterers violate orders of protection and continue to abuse, coerce, and menace their victims.⁴¹

³⁴ See Turkewitz (2014); Smith & Hope (2015); Rana (2012); Carvahlo et al. (2011); Dasgupta (2005); and Browne (1987).

³⁵ See Ryan (2012); Curry & Navarro (2002); and Barrier Free Living an organization dedicated to helping New Yorkers with disabilities live independently in the community. See website for more details.

³⁶ See Horsburgh (2005); Weitzman (2000); Stark (1996); Shapiro (2013); Richie (2005); Kanuha (2005); Jaaber & Dasgupta (2002); INCITE! & Sudbury (2005); and Crenshaw (1993).

³⁷ See Stark (1996); Stark (2007); INCITE! & Sudbury (2005); Crenshaw (1993); Sokoloff (2005); and Richie (2005).

³⁸ See Jaaber & Dasgupta (2002); INCITE! & Sudbury (2005); Stark (1996); Crenshaw (1993); Kandaswamy (2006); Kennedy (2009); Kennedy (2014); Meares (2005); Frederick & Lizdas (2003); and Richie (2005).

³⁹ See Browne (1987); Anderson et al. (2003); Davies (2002); Jaaber & Dasgupta (2002); Kaser-Boyd (2004); Koss, M. P. (2000); Lutenbacher, Cohen & Mitzel (2003); Schafran, Lopez-Boyt & Davis (2008); Weitzman (2000); World Health Organization (2013); and Horsburgh (2005).

⁴⁰ See Hecht Schafran (2012); McOrmond-Plummer (2008); Schafran et al. (2008); Taylor & Gaskin-Laniyan (2007); and National Judicial Education Program (2010).

⁴¹ See Klein (2009); Davies et al. (1998.); Jones (2000.); Jordan (2004); and Mederos et al. (2005).

Victims generally will come into contact with the batterer in Family Court and many victims fear contact with the perpetrator in Criminal Court.⁴² Evidence-based prosecution policies attempt to counter the real risks and fears domestic violence victims face, yet few victims are aware of such policies, some jurisdictions do not use victimless prosecution, and inconsistent evidence collection in domestic violence cases can hinder the viability of victimless cases.⁴³ Furthermore, the failure of the justice system is often presumed by victims, the public, and service providers alike. For many victims, the risks of reporting heavily outweigh their expectations of any positive results.

Effects of Domestic Violence

Immediate physical harm is the most obvious consequence of domestic violence, but that is only the tip of the iceberg. Domestic violence is often both a physically and psychologically traumatic experience, resulting in significant and long-term adverse effects on health. Domestic violence is associated with higher than average rates of high blood pressure, heart disease, gastrointestinal disorders, migraines, chronic pelvic pain, diabetes, arthritis, hypertension, and reproductive health issues, to name a few. Duration of the abuse is correlated with negative health outcomes. The medical costs of domestic violence are quite high—nearly \$6 billion each year nationwide.⁴⁴

Numerous clinicians, experts, and survivors consider the psychological trauma of domestic violence as more damaging and pervasive than physical assault. Those who have endured domestic violence are more likely to develop Post-Traumatic Stress Disorder (PTSD) than survivors of other forms of trauma, particularly victims who report frequent or severe sexual victimization. In one study, 66 percent of victims had symptoms of PTSD even after separating from the batterer.⁴⁵ Domestic violence survivors are especially susceptible to depression, substance abuse, anxiety, and traumatic brain injury.⁴⁶

Sexual violence by an intimate partner is more likely to result in injury and include anal and oral rape compared to non-intimate partner sexual assault. Many victims of domestic violence will acquiesce to the batterer's sexual demands to avoid physical assault. Victims of sexual assault within abusive relationships are at high risk for sexually transmitted disease, including HIV, and unwanted pregnancy; perpetrators sometimes infect or impregnate victims deliberately.

Domestic violence is also associated with poverty, homelessness, and underemployment. Batterers frequently sabotage victims' educational and employment opportunities, sometimes by assaulting or harassing victims at these locations; destroying uniforms, professional attire, or other materials; obstructing transportation; refusing to provide child care at the last minute; or deliberately injuring victims in highly visible ways (e.g. causing a black eye or broken bones). Each year, approximately eight million days of paid work (worth \$2.5 billion) are lost to domestic-violence-related causes.⁴⁷

⁴² See Finn (2004); Jordan (2004); Koss (2000); Schneider (2000); Klein (2009); and Reddick & Chapin (1999).

⁴³ See Finn (2004); and Jordan (2004).

⁴⁴ See Pearl (2013).

⁴⁵ See Pico-Alfonso et al. (2006); and Jetter (2013).

⁴⁶ See Pico-Alfonso et al. (2006).

⁴⁷ See Pearl (2013).

Domestic violence is also a leading cause of homelessness for women and their children, and approximately 38 percent of domestic violence victims become homeless at least once.⁴⁸ With a nationwide shortage of domestic violence shelter beds and affordable housing, many victims are shuffled from one shelter to another. They often return to the abusive partner when other housing options are simply no longer viable.

Notwithstanding victims' efforts to protect their children and teens from exposure to domestic violence, most children living in abusive households witness at least some acts of violence, and many are directly injured (whether deliberately or accidentally) during assaults. Witnessing domestic violence may be extremely traumatizing and distressing for children, resulting in symptoms of PTSD, anxiety, and depression.⁴⁹ Additionally, children may also become aggressive, have difficulty concentrating, regress developmentally, and develop adverse physical health consequences. In short, "domestic violence poses a serious threat to children's emotional, psychological, and physical well-being, particularly if the violence is chronic."⁵⁰

Furthermore, children and teens living in homes with domestic violence are significantly more likely to be victims of child physical and sexual abuse; in fact, "domestic violence is the single most common context for child abuse and neglect." Some studies report that the overlap of child abuse and domestic violence is at least 50 percent.⁵¹ Even after a victim separates from an abusive partner, children remain at risk of physical, sexual, and emotional abuse and neglect—and possibly kidnapping and homicide.

Batterers frequently win shared legal custody or visitation rights and use access to the children as a form of coercive control of the victim, often by abusing or threatening to abuse the children, withholding child support, or preventing contact between victims and their children.⁵² During visitation or when living with the batterer, children may, in fact, be at increased risk of physical and sexual abuse because the victim is no longer able to monitor the perpetrator or mediate the abuse, or because of the "retaliatory tendencies of many batterers."⁵³ When a victim has children, domestic violence is invariably a child protection issue, too.

Exposure to domestic violence as a child results in considerable increased risk of being physically, sexually, and emotionally abused later on in life. Furthermore, witnessing domestic violence is associated with increased risk of unplanned pregnancy, criminal deviancy, substance abuse,

⁴⁸ See National Network to End Domestic Violence factsheet "Domestic Violence, Housing, and Homelessness" (n.d); Iyengar & Sabik (2009); Lam (2015); and Gonnerman & Catania (2005).

⁴⁹ See Sternberg et al. (1993); Ford (2008); Dejonghe, Bogat, Levendosky, Von Eye & Davidson (2005); Finkelhor, Turner, Ormrod, & Hamby (2009); Hamby, Finkelhor, Turner & Ormrod (2011); Stiles (2002); Fantuzzo & Mohr (1999); Osofsky (1999); Bancroft & Silverman (2004); Terr (1994); and Graham-Bermann & Levendosky (1998).

⁵⁰ See the National Child Traumatic Stress Network website.

⁵¹ See Stark (2007); Bancroft & Silverman (2004); Fantuzzo & Mohr (1999); Finkelhor, Turner, Ormrod, & Hamby (2009); Hamby, Finkelhor, Turner & Ormrod (2011); Osofsky (1999); National Child Traumatic Stress Network website; and Futures Without Violence website.

⁵² See Anderson et al. (2003); Baum, Catalano, Rand & Rose (2009); Dasgupta (2007); Davies (2009); Douglas & Hines (2011); Hamby (2009); Jordan (2004); Stark (2007); and Shepard, Sadusky & McNamara (2009).

⁵³ See Bancroft & Silverman (2004).

depression, suicide, and poor health and educational outcomes.⁵⁴ Though most children exposed to domestic violence do not become abusive in adolescent and adult intimate relationships, children may learn that violence is an appropriate and effective problem-solving strategy and that abuse in intimate relationships is acceptable in relationships and everyday life.⁵⁵

Even leaving an abusive partner is no guarantee of safety. In fact, victims are at the greatest risk of homicide, severe physical and sexual assault, stalking, and menacing in the first few months after attempting to or succeeding in leaving an abuser. Three quarters of domestic violence homicide victims and 85 percent of non-fatal severe domestic violence assault victims attempt to leave the abuser at least once, and the attempt to leave is the precipitating factor in 45 percent of domestic violence homicides.⁵⁶

Law Enforcement and Domestic Violence Historically

Police conduct and policies have long been the focus of criminal justice interventions in domestic violence cases, as well as the target of policy changes. Decades ago, many police officers throughout the United States approached domestic violence at a distance: domestic assaults and “disputes” were not so much crimes as private issues outside the jurisdiction of law enforcement. Batterers were rarely arrested; for the most part, officers often requested that they “cool off” a bit or spend a few nights away from home. Most institutions, including medical ones, approached domestic violence through a similar lens: “prior to mandatory arrest, the police response to battering was no different than the response by doctors, judges, psychiatrists or social workers.”⁵⁷

Cases involving serious police department breaches of duty—such as that of Tracy Thurman⁵⁸ in 1984—contributed to significant overhaul of local and national police procedures. Around the same time, Sherman and Berk⁵⁹ published a brief but widely publicized paper about a Minneapolis Police Department experiment in which the authors discouraged police from “counseling” both parties and touted the deterrence effect of arrest on batterers. Though the Sherman and Berk paper documented findings from a relatively small sample, it was used as the principle impetus and justification for mandatory arrest policies across the country.⁶⁰ Throughout the late 1980s and 1990s hundreds of police departments adopted mandatory or pro arrest policies. Currently, almost all police departments across the country have written domestic violence policies, and most use mandatory arrest.⁶¹

⁵⁴ See Fantuzzo & Mohr (1999); Osofsky (1999); Stiles (2002); Swahn et al. (2008); Duke, Pettingell, McMorries & Borowsky (2010); Olshen, McVeigh, Wunsch-Hitzig & Richert (2007); Dube et al. (2001); Sternberg et al. (1993); Johnson (2008); and Katz (2006).

⁵⁵ See Cohen, Davis & Graffunder (2006); Duke et al. (2010); Katz (2006); Falb et al. (2011); Fantuzzo & Mohr (1999); and Sternberg et al. (1993).

⁵⁶ See Jordan (2004).

⁵⁷ See Stark (1996).

⁵⁸ See *Thurman v. City of Torrington*, 595 F. Supp. 1521 (D. Conn. 1985).

⁵⁹ See Sherman & Berk (1984).

⁶⁰ See Stark (1996).

⁶¹ See Hovmand, Ford, Flom & Kyriakakis (2007).

Mandatory arrest laws were primarily created to control the behavior of police officers—to curb the so-called “traditional failure”⁶² of law enforcement in domestic violence cases. The degree to which mandatory arrest benefits victims has been debated. Over the past three decades, researchers have attempted to replicate (or challenge) Sherman and Berk’s 1984 findings.⁶³ Taking the evidence as a whole it appears that “arrest reduces subsequent violence better than any other intervention.”⁶⁴

Mandatory arrest, however, had another result: dual arrests and arrests of women. After the 1994 mandatory arrest legislation passed in New York, domestic violence related arrests doubled, in part because of new dual arrests.⁶⁵ One potential factor in this increase in arrest of women was “net widening,” the universal increase in domestic violence arrests because the threshold for such arrests was effectively lower.⁶⁶ While some have misinterpreted these findings as evidence that women are equally violent against either male or female partners, the majority of women arrested (either dually, or alone) in domestic violence cases are victims of battering by men.⁶⁷

States quickly passed primary aggressor laws, similar to the one enacted in New York in 1997, to offset this phenomenon—to good effect. However, rates of dual arrests and arrests of women, many of whom are actually victims, remain significant. In 2007, women represented nearly 20 percent of domestic violence related arrests nationwide.⁶⁸ Currently, dual arrests are substantially more likely in same-sex couples.⁶⁹

Arrest of victims may result in loss of work or wages, loss of custody of children, denial of visas, or other complications. As Hovmand, *et al.* write, “those who seek assistance subsequent to arrest may find that their arrest record disqualifies them for service.”⁷⁰ Additionally, dual arrests may serve to embolden perpetrators while simultaneously undermining victims—both of which increase the

⁶² See Han (2003); and Stark (1996).

⁶³ Several research studies documented detrimental effects of arrest under certain circumstances, including retaliation or offender “backlash” in which victims of domestic violence were at increased danger upon arrest of perpetrators. Still, numerous studies reported little to no backlash effect, others supported considerable deterrence effect of arrest on some batterers, and others were inconclusive. Arrest affects persons differently, based in part on demographic and contextual factors. Most commonly, arrest is shown to deter employed men more than the unemployed; deterrence tends to be greater among married versus unmarried male perpetrators; and those perpetrators perceived to have “more to lose” should they be re-arrested are less likely to be recidivists. See Dugan, Nagin & Rosenfeld (2001); Maxwell, Garner & Fagan (2001); Han (2003); Jordan, C.E. (2004); and Stark (1996). A 2005 study reported a deterrent effect when victims called police and that re-abuse increased when the victims did *not* contact police. See Felson, Ackerman & Gallagher (2005). This study also reported “arrest is only a slightly more severe punishment than intervention, because offenders are incarcerated for a short time.”

⁶⁴ See Stark (2007).

⁶⁵ See Peterson (2003).

⁶⁶ See Hovmand et al. (2007).

⁶⁷ See Dasgupta (2001); Hovmand et al. (2007); Kelly & Johnson (2008); Stark (2012); Stark (2007); Pence & Dasgupta (2006); Larance (2007); and Johnson (2008).

⁶⁸ See Hovmand (2007). Of note: In some jurisdictions, victims may be told that their charges will be dropped if they agree to drop charges against the batterer. See O’Sullivan, Davis, Farole, Jr. & Rempel (2007).

⁶⁹ See Hirschel, Buzawa, Pattavina, Faggiani & Reuland (2007).

⁷⁰ See Hovmand et al. (2007).

victim's danger. Batterers sometimes facilitate the arrest of victims as a means of coercive control.⁷¹ Even if charges against the victim are eventually dropped, victims are significantly less likely to contact police in the future and are less likely to cooperate with prosecution of the perpetrator.⁷²

Historically, batterer re-offense and re-arrest rates have been the primary outcome measure of arrest policy research.⁷³ The significance of victims' experiences of police policies, particularly victims' sense of empowerment and degree of satisfaction with such policies, has garnered attention as well. Many domestic violence scholars and advocates have been critical of policies that they believe reduce or limit victim input,⁷⁴ arguing that the state "has simply succeeded in transferring power from one controlling entity to another."⁷⁵

Some victims are ambivalent about the offender going to jail. Apart from fear of retaliation, a victim may oppose incarceration for a number of reasons, namely love and concern for the offender; a desire to maintain the batterer's relationship with children in common; belief that the abuse will abate over time; dependence on the batterer for financial or other support; fear the offender will be deported; and opposition—in principle—to incarceration. Some victims are wary of police intervention if they feel that previous interactions with law enforcement were unhelpful or led to greater danger.⁷⁶ Still, the most common complaint by domestic violence victims is that police don't do enough.⁷⁷ According to one national report, lack of thorough investigation in domestic violence cases has a "massive impact on attrition" and law enforcement does not routinely collect evidence at crime scenes, particularly photography of damaged property.⁷⁸

Race, class, and gender sometimes influence officer decisions to arrest, as do the demeanor of batterers and the behavior of victims at the scene.⁷⁹ Larance explains that when police arrive and see a crying, screaming person (the victim) and a calm, level-headed one (the perpetrator), the negative attention sometimes shifts to the victim.⁸⁰ The victim may cease to appear credible.⁸¹ If the victim used force in

⁷¹ See Schneider (2000); Jones (2000); Larance (2007); and Jordan (2004).

⁷² Such arrests lead to victims who lose faith in law enforcement and the criminal justice system, for "while the state did little to protect them while they were being victimized, it arrested them when they stood up for themselves." See Dasgupta (2001).

⁷³ Even in studies that report some level of arrest deterrence, it is known that the majority of batterers re-abuse the same victim; and for a small percentage of perpetrators, criminal justice sanctions have absolutely no effect whatsoever. Those perpetrators who are undeterred by law enforcement involvement and criminal justice sanctions are considered particularly dangerous and their victims are at high risk for homicide.

⁷⁴ See Mills (1999); Schneider (2000); Davies (2009); and Dasgupta (2007).

⁷⁵ See Han (2003).

⁷⁶ See Felson & Pare (2005).

⁷⁷ See Han (2003); Jordan (2004); Eastal (2008); and Bancroft (2002).

⁷⁸ See Nelson (2013).

⁷⁹ For example, historically, white male batterers are more likely to be arrested, and arrests are less likely when the victim is a minority. See Hirschel et al. (2007); Stark (1996); Schneider (2000); Frederick & Lizdas (2003); Jordan (2004); and Bancroft (2002).

⁸⁰ See Larance (2007).

⁸¹ See Larance (2007); and Snyder (2013).

defense of the domestic violence, police may treat the victim unsympathetically.⁸² Officers' perceptions of risk to the victim are also determinants in arrests; yet many batterers become more adept at appearing unthreatening and calm the more often police are called.⁸³ Such partialities for victim and batterer presentation overlook the most basic tenets of domestic violence: typically, batterers are charming and in control, and victims are frightened and distressed.⁸⁴

Victims' experiences with police affect their attitudes and decisions about involvement with other branches of the criminal justice system. To the majority of victims and laypersons, the "elements of the criminal justice response are not distinct."⁸⁵ Those who feel mistreated, unsupported, blamed or disbelieved by police officers are less likely to feel comfortable and open to cooperating with prosecutors. Such victims are less likely to contact police in the future, even during severe domestic violence incidents. In a recent study of domestic violence victims in New York City, surveyors found that "punitive or negligent actions by the police appeared to create distrust of the criminal justice system and reluctance or inability to participate in prosecution."⁸⁶ At the same time, "a positive interaction with the police helped convince victims that they should cooperate in prosecution." Not only are police officers primary first responders in domestic violence incidents, they also serve as gatekeepers to the criminal justice system.

Law Enforcement and Domestic Violence in New York

Domestic violence in New York City is a microcosm of domestic violence nationally. With the exception of trends specific to rural and suburban populations as compared to urban areas, dynamics of domestic violence victimization and perpetration in NYC are consistent with those reported throughout the country. Similarly, criminal justice system practices and outcomes match those of other major cities.

In Manhattan, the percentage of arrests in response to reports of all forms of domestic violence to police (not only IPV) has remained nearly the same between 2004 and 2015. The volume of reports and arrests, however, has increased considerably. In 2015, police officers filed 40,239 Domestic Incident Reports (DIRs), compared to 34,688 in 2004.⁸⁷ In 2004, approximately 19 arrests were made for every 100 DIRs, while that number dropped fractionally to 18 percent in 2015.⁸⁸ The number of domestic violence arrests per year thus increased by 12 percent during this period, from 6,512 in 2004 to 7,286 in 2015.⁸⁹

The New York City Domestic Violence Fatality Review Committee 2014 Annual Report documented 442 intimate partner homicides in New York City as a whole between 2002 and 2013. This accounts

⁸² See Hovmand (2007).

⁸³ See Jordan (2004); Larance. (2007); and Felson, Ackerman & Gallagher (2005).

⁸⁴ See Larance (2007); Kandaswamy (2006); Schneider (2000); and Mederos et al. (2005).

⁸⁵ See O'Sullivan et al. (2007) p. 57.

⁸⁶ See O'Sullivan et al. (2007) p. 80.

⁸⁷ New York City Police Department Manhattan domestic violence statistics (2004-2014).

⁸⁸ New York City Police Department Manhattan domestic violence statistics (2004-2014).

⁸⁹ New York City Police Department Manhattan domestic violence statistics (2004-2014).

for 52 percent of all family-related homicides.⁹⁰ Family-related homicides involving intimate partners declined minimally from 41 in 2002 to 37 in 2013.⁹¹

According to this report by the Mayor's Office, adult females currently comprise 67 percent of all family-related homicide victims,⁹² the majority of these are black women, ages 20 to 25. Most of these homicides occurred in low-income neighborhoods and were committed by young adult males against young adult females. Consistent with national police reporting rates, less than one third of family-related homicide victims between 2002 and 2013 had prior contact with NYPD.⁹³

Many of the most serious non-fatal cases that DANY handles are domestic violence related, within the New York State definition (i.e., including family relationships other than intimate partners). In 2015, domestic violence offenses made up about 11 percent of all felony cases screened by the Office and 22 percent of all violent felonies. From 2010 to 2015 the number of indictments for domestic violence per year increased by 50.6 percent. Despite the increased number and rates of indictments, DANY maintained a high conviction rate for indicted cases; in 2015, 90 percent of domestic violence indictments resulted in convictions. Overall, between 2010 and 2015 our office secured 8,959 convictions in intimate partner violence cases, including 893 felony convictions. In fact, the total number of IPV convictions increased during this time by over 43 percent between 2010 and 2015, as the number of felony convictions alone increased by over 125 percent.

Nonetheless, domestic violence, and intimate partner violence specifically, remains a serious issue for our office. More than half of cases of intimate partner violence arrests are being dismissed despite a slight drop in this rate since 2010. Recidivism is another major concern— nearly 30 percent of new IPV cases involved defendants with a prior IPV arrest. Our experience over the past six years has shown that while outreach, victim services, and experienced DV supervision are effective in increasing the number of crimes of domestic violence that are reported and offenders that are convicted, more steps must be taken to address this issue.

C. Background on the Initiative

Research has shown that collaboration among all stakeholders, including police, prosecutors, probation officers, victim's rights advocates, counselors, judges, health care providers, and community organizations, as well as informal groups such as employers, faith-based organizations, family systems and neighbors, results in more effective provision of services.⁹⁴

With this collaborative framework as a background, the Initiative sought to address domestic violence issues as ambitiously as possible. Our goals included but were not limited to the following:

- To adopt a primary prevention approach to domestic violence: seeking to stop domestic violence before it starts.

⁹⁰ See New York City Domestic Violence Fatality Review Committee 9th Annual FRC Report (2015) p. 3. At the time of the writing of this report, the 2015 New York City Domestic Violence Fatality Review Committee Report has not yet been released.

⁹¹ See New York City Domestic Violence Fatality Review Committee 9th Annual FRC Report (2015) p. 3.

⁹² See New York City Domestic Violence Fatality Review Committee 9th Annual FRC Report (2015) p. 4.

⁹³ See New York City Domestic Violence Fatality Review Committee 9th Annual FRC Report (2015) p. 6.

⁹⁴ See Chamberlain (2008).

- To identify, serve, and treat domestic violence survivors more effectively, by improving the quantity, quality, capacity, reach, coordination, and awareness of domestic violence resources.
- To identify new ways to engage offenders and build capacity among service providers who target offender issues.
- To enhance governmental organizational practices and utilize new technologies to serve victims better, facilitate greater collaboration, and enhance positive outcomes within the legal system.
- To improve awareness among the public of domestic violence.
- To create new data-driven approaches to tailor solutions to different situations.

The first task of the Initiative was to determine specific areas of focus to guide analysis and intervention. To accomplish this task, Initiative members met with representatives and experts from various domestic violence victim service agencies, hospital-based and community-based programs, and criminal justice organizations and researchers to discuss overarching themes and challenges. While the majority of these representatives operate local programs, the Initiative also met with nationally and internationally renowned experts and organizations.⁹⁵

In addition, Initiative members developed process maps reflecting the chronology of criminal justice responses to domestic violence victimization (when reported to law enforcement), survivor engagement with hospital programs, and common pathways through which survivors of domestic violence engage with DANY. Such process maps were used to analyze gaps in services for and interventions with domestic violence survivors.⁹⁶

As described above, members of the Initiative were divided into nine working groups to focus their work:

- Prevention and Education
- Community-Based Interventions
- Engaging the Immigrant Community
- Hospital-Based and Other Medical Interventions
- Family Court
- Batterer Accountability and Engagement
- Law Enforcement
- Criminal Court and DANY
- Legislation

Concurrently, the CUNY Institute for State and Local Governance (ISLG) conducted a literature review of peer reviewed journals to identify existing criminal justice programs and highlight best practices from around the country and internationally that focused on domestic violence. Where appropriate, national best practices databases—“meta-analysis” sites—were used for this report, such

⁹⁵ A complete list of participating agencies and persons is available in Appendix 1.

⁹⁶ See Appendix 3 for the process maps.

as the Council for State Governments' "What Works In Reentry Clearinghouse" and SAMHSA's National Registry of Evidence Based Programs and Practices. Excerpts from the literature review are included in Appendices 4 through 7.

II. WORKING GROUPS

A. Prevention and Education

One model for thinking about the prevention of domestic violence—the social-ecological model—considers the multiple spheres of influence at play among and between individuals, relationships, community, and society. Given these various levels, interventions can be wide-ranging, addressing one or multiple levels of influence.⁹⁷ In designing a strategy to address domestic violence, this model can provide guidance and help determine which level of intervention to target and the likely outcome.

Prevention may be categorized as primary (before the problem has occurred), secondary (implemented in the beginning stages of a problem, such that risk factors are removed and future exposure is reduced), or tertiary (ongoing effects are curtailed), or a combination of these.⁹⁸

For the most part, campaigns targeting domestic violence have primarily been secondary and tertiary in nature, but research on the origins of domestic violence led the DVI to conclude that primary prevention is also vital. Historically, domestic violence prevention focused on those persons already identified as victims seeking shelter and services from community and grassroots organizations.⁹⁹ While such services are considered intervention, they also represent secondary and tertiary prevention, as they help to prevent violence from continuing and help limit the long-term effects of domestic violence, respectively. Specifically, domestic violence programs that provide legal, financial, mental health, and concrete support to victims aim to reduce victims' potential reliance on batterers and to increase victims' self-sufficiency.¹⁰⁰

Most experts and clinicians in the field agree that domestic violence emerges primarily from learned behaviors and attitudes—elements that can become, in part, personality characteristics. Social learning and other theories detail the ways in which children and adults constantly receive implicit and explicit messages about relationships; sex and gender roles; normative or acceptable behaviors with intimate partners and family members; and violence. Such socialization occurs within families, communities, culturally and religiously defined groups, and cross-culturally. Media, legal systems, educational and religious institutions, medical systems, and prominent public figures reflect and transmit mores and beliefs. These messages may condone violence against women by men, advocate male dominance over females, and impart males with a sense of ownership over and entitlement to their partners; even within same-sex relationships, the assumption that one partner should dominate the other pervades.

Echoing the sentiments of many in the field,¹⁰¹ Cohen, Davis and Graffunder point to four specific socio-cultural norms that reflect and result in “acceptance and a sense of reasonableness about intimate partner violence and abuse”: (1) limited roles for and objectification of women; (2) violence as an acceptable way to solve problems; (3) traditional masculinity and male privilege; and (4) privacy

⁹⁷ See Dahlberg & Krug (2002).

⁹⁸ See Chamberlain (2008); and Cohen et al. (2006).

⁹⁹ See Cohen et al. (2006); and Katz (2006).

¹⁰⁰ See Chamberlain (2008); Cohen, L et al. (2006); Dasgupta (2007); Davies (2002); Dugan et al. (2001); and Iyengar & Sabik (2009).

¹⁰¹ See Bancroft (2002); and Katz (2006).

and secrecy around intimate partner violence.¹⁰² As these authors write, “the prevention of violence against women and girls is a process of changing attitudes, behaviors, beliefs, and institutional norms of acceptable violence and discrimination”¹⁰³ Programs that have successfully targeted socially accepted norms—national campaigns to prevent cigarette smoking and drunk driving—are examples of prevention strategies that may be applied to domestic violence.¹⁰⁴

Considerable scholarship on domestic violence suggests that many adult batterers were exposed to domestic violence or other forms of abuse during childhood.¹⁰⁵ A large body of research on pediatric exposure to trauma reports that children who are exposed to violent, entitled, and abusive treatment of intimates, without sufficiently corrective models for healthy behavior, are at an increased risk of being physically, sexually, and emotionally abused later on in life.¹⁰⁶ While it is certainly true that the majority of children exposed to trauma do not grow up to become batterers, it is a significant commonality among those who do.¹⁰⁷

Violent behaviors among intimate partners can precede adulthood. For example, a 2011 Center for Disease Control and Prevention (CDC) nationwide survey found that 23 percent of females and 14 percent of males who ever experienced rape, physical violence, or stalking by an intimate partner first experienced some form of partner violence between 11 and 17 years old.¹⁰⁸ This phenomenon only adds to the justification for starting educational efforts early.

To combat the socialization forces that influence children and young adults to tolerate or perpetrate intimate partner violence, the working group on prevention and education discussed ways to address these learned behavioral norms.

The group focused discussion on enhancing efforts by schools to convey healthier attitudes about relationships. As noted by the National Resource Center on Domestic Violence, “the vast majority of primary prevention initiatives for DV have involved some type of educational strategy which is often school based.”¹⁰⁹

Prevention and education programs for youth tend to focus on debunking myths and attitudes based on gender roles and dynamics between males and females, including the acceptability of violent and controlling behavior in relationships.¹¹⁰ Such programs include, among others, the NYC- Relationship Abuse Prevention Program (RAPP), founded originally in 1997 as the DOE Adopt-A-School

¹⁰² See Cohen et al. (2006) p. 93.

¹⁰³ See Cohen et al. (2006) p. 94.

¹⁰⁴ See Cohen et al. (2006) pp. 89–100; and Turgeon (2007).

¹⁰⁵ See Duke et al. (2010); Johnson (2008); Bancroft (2002); Katz (2006); Ford (2008); Dube et al. (2001); Hamby et al. (2011); Falb et al. (2011); Stiles (2002); and Fantuzzo & Mohr (1999).

¹⁰⁶ See Sternberg et al. (1993).

¹⁰⁷ See Bancroft (2002); Johnson (2008); and Katz, J. (2006).

¹⁰⁸ See Centers for Disease Control and Prevention: Teen Dating Violence factsheet (n.d).

¹⁰⁹ See Chamberlain (2008).

¹¹⁰ See Wolfe et al. (2009); Fleck-Henderson (2012); American Bar Association. (2006); and Center Against Domestic Violence (2009).

Program, and the NYC Healthy Relationship Program founded in 2005¹¹¹ and the Safe Dates prevention program.¹¹² Though programs such as the Center Against Domestic Violence, Day One,¹¹³ and the New York City Alliance Against Sexual Assault,¹¹⁴ provide frequent and ongoing training in high schools, domestic violence (or teen dating violence) prevention and education programs are not mandatory in New York State.

Some middle schools and high schools have chosen curriculum segments focused on healthy relationships. The curriculum approaches of these schools often include focusing on intimate partner-violence knowledge, attitudes, and beliefs from a feminist and/or cognitive behavioral perspective; using social norms to change behavior; promoting help seeking and peer support; promoting the development of specific relationship skills; and focusing on the legal and judicial aspects of intimate partner violence.¹¹⁵

There are a few school-based dating violence prevention programs that have at least one rigorous randomized control trial evaluation that suggests positive impacts. For example, the Safe Dates program mentioned above includes a rigorous curriculum of nine 50-minute sessions, one 45-minute play to be performed by students, as well as a poster contest. It addresses caring relationships, dating abuse, how to help friends, gender stereotypes, handling anger, preventing sexual assault, and more. Evaluated in 2005 at four follow-up periods, participants were found to have experienced both less physical violence victimization and to have committed less abuse than those in a control group.¹¹⁶

A concern was raised in the working group that school faculty and staff do not themselves have a clear grasp as to how best to respond to the presentation of indicators for domestic violence among children, parents, or each other. Though there are mandatory protocols in place that relate to child abuse, group members felt there was a need for re-training on this issue. It was felt that there was an even more significant need for training about how to help or address adults in need. This was a theme echoed in many working groups. Clear pathways to help and access to resources are not merely needed for those in need, but also for those who would attempt to address the problem.

In addition to programs in schools, public information and awareness campaigns are a common approach to the primary prevention of intimate partner violence and sexual violence. Public awareness campaigns have been used throughout the world to break the silence that surrounds these forms of violence, to inform, to try to influence individuals' attitudes and social norms about its acceptability, and to build political will to address the problem. In this vein, the working group looked to traditional and new media to communicate violence prevention norms and considered new applications of social media and new communications technologies to prevent and address violence. It was further noted that messages about domestic violence make up a very small percentage of the wide variety of coordinated public service announcements throughout public transit, and the media.

¹¹¹ RAPP operates in 30 high school campuses and middle schools and the current providers are Center Against Domestic Violence, Edwin Gould Services for Children and Families – STEPS to End Domestic Violence, and CAMBA. <http://www1.nyc.gov/site/hra/help/domestic-violence-support.page>.

¹¹² See Hazelden Betty Ford Foundation website.

¹¹³ See Day One Organization website.

¹¹⁴ See New York City alliance against sexual assault website.

¹¹⁵ See Whitaker, Murphy, Eckhardt, Hodges & Cowart (2013).

¹¹⁶ See Safe Dates Program website.

Recommendations for Prevention and Education

The working group members recommend the following ways to prevent domestic violence by increasing awareness and taking preventative steps:

1. In collaboration with the NYC Human Resources Administration (HRA) and the Mayor's Office to Combat Domestic Violence (OCDV), the New York City Department of Education (NYC DOE) should expand its "Healthy Relationship" prevention and education program for all public school students starting no later than middle school. DANY will work with NYC DOE, HRA, and OCDV to support this additional programming, including but not limited to the Relationship Abuse Prevention Program (RAPP), which places social workers in schools to provide direct services and training to students and staff.
2. In collaboration with OCDV, DANY will explore working with the NYC DOE to provide citywide domestic violence training and support to ensure public school teachers, parent coordinators, guidance counselors, school nurses, and school safety officers receive comprehensive training in how to recognize signs of abuse.
3. NYC should implement a new coordinated public service advertising campaign targeting domestic violence. It should include television and radio ads, development and/or promotion of smart phone and tablet applications for victims, and social media campaigns. This effort should include placement of domestic violence prevention and education materials in community and government waiting rooms and restrooms, including within DANY spaces and in medical facilities.
4. In collaboration with OCDV and MOCJ, DANY and other city agencies will explore working with outside parties to develop and implement a smart phone app for victims of domestic violence to provide information and facilitate access to services, to support ready access to copies of orders of protection for reference in the event of future incidents, and to encourage domestic violence reporting more generally.

B. Community-Based Interventions

Research has shown that coordinated community responses result in more effective programs that address domestic violence.¹¹⁷ This working group utilized a broad understanding of "community" to discuss the roles of non-governmental organizations serving victims/survivors, community groups, faith based organizations, family systems, social groups, and neighbors.

Community programs are crucial players in a coordinated community response to domestic violence. Victims of domestic violence may be more likely to disclose to and seek help from community programs prior to or instead of engaging with law enforcement.¹¹⁸ Domestic violence and non-domestic violence specific programs, many of which are faith-based, may serve as the gateway to criminal justice system involvement. Organizations that are ill-informed or not equipped to respond to disclosures of domestic violence may delay or deter victims from receiving vital resources.

¹¹⁷ See DePrince, Belknap, Labus, Buckingham & Gover (2012); and Shepard, Falk, & Elliot (2002).

¹¹⁸ See Anderson et al. (2003); Block (2003); Davies (2009); and Hamby (2009).

Survivors of domestic violence are at increased risk of chronic poverty, homelessness, underemployment, illness, and other forms of victimization.¹¹⁹ Without sufficient and timely assistance, victims are more likely to return to or remain with their abusive partners.¹²⁰ Most have multiple needs and require services that cannot be provided from a single source. Such needs include but are not limited to the following:

- Basic needs: emergency shelter, food, clothing, toiletries, metro cards;
- Child care;
- Employment and related assistance;
- English as a Second Language Courses;
- Family Court and other civil legal support;
- Health insurance;
- Housing (rent assistance, permanent/affordable housing, NYCHA housing transfer);
- Identification documents;
- Medical and mental health care; and
- U Visa application assistance.

Without sufficient and timely assistance, victims of all genders and backgrounds are more likely to return to or remain with their abusive partners. Thus, there is a critical need to examine resources for addressing domestic violence among more isolated and potentially vulnerable populations, such as the LGBTQ community and people with disabilities. Under-resourced and vulnerable populations may seek help from community programs prior to or instead of engaging with law enforcement. The working group explored the impact of access and availability of resources on participation in the justice system.

Temporary shelter and permanent housing is of prime importance to victims looking to leave their abusers. This area is a perfect example of the problems faced by victims that can be even worse for vulnerable populations. Domestic violence shelter beds in New York City have historically been almost exclusively reserved for women with young children.¹²¹ There are substantially fewer beds for “single” women and mothers with adolescent male children, and there are virtually no domestic violence shelter beds for male and transgender victims. There is only one shelter in New York City that accepts companion animals, despite the frequent correlation of animal abuse and IPV. Many community programs and domestic violence shelters are not physically accessible to persons with disabilities. The waitlist for NYCHA public housing is years in many cases, despite priority given to domestic violence victims.

Working group members identified many other vital service shortages and obstacles faced by both domestic violence victims and community programs in New York City including: access for persons with disabilities; access for non-English speakers; the need for a variety of kinds of financial assistance; problems within community programs; as well as difficulties navigating criminal and civil legal systems.

¹¹⁹ See Gilfus (2002); Iyengar & Sabik (2009); Jaaber & Dasgupta (2002); Anderson et al. (2003); Dugan et al. (2001); and Hamby (2009).

¹²⁰ See Anderson et al. (2003); Block (2003); Dasgupta (2007); Davies (2009); Dugan, L., Nagin et al. (2001); Gilfus (2002); Hamby (2009); Iyengar & Sabik (2009); and Jaaber & Dasgupta (2002).

¹²¹ Progress is being made in this area. See Kaufman (2015).

Working group members noted that financial and social inequality between batterers and victims is a significant impediment to victim safety and stability. Victims who do not have or receive adequate financial assistance are often compelled to remain or return to batterers, or face other dangers. The assistance provided by the Human Resources Administration and the Office of Victim Services may not be sufficient, and there is a need for additional resources in New York City for programs that work toward developing financial independence, including legal support, employment assistance, and resume-building workshops. Consequently, many victims of domestic violence remain in abusive relationships or in poverty or both.

Group members reported that service providers often fail to follow-up with or remain in contact with victims referred to other organizations. Because victims typically require multiple forms of assistance and seek help from more than one agency, victims are burdened with coordinating their own care and service utilization. Many victims experience tremendous difficulty meeting and managing program requirements, and attending appointments. Consequently, many victims of domestic violence and their children “fall through the cracks.”

Group members discussed the difficulties in discussing, and treating “domestic violence” as if it applies to only one specific archetype of abuser and victim, and one specific pattern of conduct. Members noted the substantial variation among domestic violence perpetrators and victims, and the varying *types* of conduct subsumed by the term. Members reflected on the extent to which violence within a relationship may be “Situational Couple Violence”¹²² (partner violence that is not based in dynamics of power and control, and may be perpetrated equally by males or females) or “Coercive Controlling Violence”¹²³ (intimate partner violence that is normally associated with battering—violence with a pattern of emotional abuse and coercion). Differentiation through assessment of the various types of domestic violence would, members argued, help ensure interventions were specific and more likely to succeed. A coordinated community effort would best be served by a sophisticated approach that recognizes the nuances of each situation, as opposed to current “one size fits all” responses. This theme of needing to differentiate individuals, behaviors, and needs, pervaded the working groups.

Recommendations for Community-Based Organizations

Given the important role of the community in serving victims of domestic violence, the working group recommendations focus on addressing shortages in vital services such as shelter, housing, access for persons with disabilities, language access, and financial assistance, problems within community programs, and difficulties with the criminal and civil justice system.

1. New York City should continue to add domestic violence shelter beds, especially for single women without children, for women with teenage male children, and for male and transgender victims.
2. New York City Housing Authority (NYCHA) should consider (a) simplifying eligibility requirements for domestic violence victims making initial applications to public housing,

¹²² See Kelly & Johnson (2008); and Johnson (2008).

¹²³ Evan Stark and Michael Johnson’s terminology, respectively, for intimate partner violence (or domestic violence) as we know it.

- as well as applications for emergency transfers necessitated by domestic violence and (b) expediting the time frame for both processes.
3. Community-based organizations and law enforcement should work together to expand access to services for those not fluent in English through use of additional interpreters and through online telephone translation services.
 4. DANY will explore funding for American Sign Language Interpreters (ASL) for community-based programs serving victims of domestic violence and sexual assault.
 5. Community programs should make facilities accessible to the disabled/handicapped.
 6. Community programs should enhance service availability for LGBTQ victims.
 7. The City should host quarterly roundtables so that community-based organizations and agencies, law enforcement and stakeholder groups can collaborate effectively in managing services to victims and facilitating the implementation of initiative recommendations.
 8. OCDV and community-based organizations and agencies should continue to provide ongoing training for Assistant District Attorneys (ADAs), NYPD, and criminal and civil court judges and staff on the dynamics of domestic violence and the effects of trauma on family and victim safety.

C. Engaging the Immigrant Community

There is a strong need to improve engagement with the immigrant community in New York City about domestic violence. As noted previously, rates of domestic violence within the immigrant community have historically appeared to be disproportionately high, and abusive partners frequently take advantage of the many ways an immigrant victim might be vulnerable, including social, religious, cultural, geographic, and linguistic isolation, misinformation about laws and law enforcement, and, sometimes, attitudes that condone or endorse domestic violence.

Rates of reported domestic violence within the immigrant community remain high, “despite recent federal legislation that has opened new and safe routes to immigration status for some immigrant women who are victims of domestic violence.”¹²⁴ Immigrant status may specifically put women at higher risk for domestic violence involving serious injury or homicide. A review of studies involving Latina, South Asian, and Korean immigrant women shows rates as high as 50 percent having experienced physical or sexual abuse by partners.¹²⁵ Limited study also shows that Arab American women and teens may also be at higher risk for domestic violence.¹²⁶

Isolation of any kind represents a significant domestic violence risk factor, as abusive partners readily control access to information, resources and support systems. Such isolation is more likely when immigrant victims are separated from their families upon arrival to the United States, or their primary social and family supports remain in their country of origin. Many immigrant victims are more likely

¹²⁴ See Futures Without Violence: The Facts on Immigrant Women and Domestic violence (n.d).

¹²⁵ See Raj & Silverman (2002); and Lee (2007).

¹²⁶ See Dervartanian Kulwicki & Miller (1999).

to be financially dependent on their partners and extended family, particularly those who are undocumented.

For the past three years the leadership of the DANY Domestic Violence Unit has provided regular training to numerous consulates on the dynamics of domestic violence and the role of the criminal justice system. The consulates that have received the trainings include: (1) Consulate General of Mexico; (2) Consulate General of Peru; (3) Consulate General of El Salvador; (4) Consulate General of Guatemala; (5) Consulate General of Brazil; (6) Consulate General of Morocco; (7) Consulate General of Venezuela; (8) Consulate General of Ecuador, and (9) Consulate General of Colombia. DANY also partnered with Univision 41 to produce a video on immigrant fraud and domestic violence to help educate and provide resources to the immigrant community.

Lack of familiarity with law enforcement in this country, and fear of law enforcement in their origin country is common, as is a lack of understanding of the distinction between the police and Immigration and Customs Enforcement. As a result, reporting rates are even lower for immigrant domestic violence victims than the national average.¹²⁷ According to working group members, immigrant victims of domestic violence frequently describe not being taken seriously or treated with suspicion by members of law enforcement who, at times, presumed the victims were exaggerating or faking victimization to obtain visas or other benefits. Similarly, victims reported that the U Visa application process was cumbersome and overly contingent on individual law enforcement members who might delay signing off on applications. Members expressed concern over the lack of training for government employees in general on cultural humility¹²⁸ and awareness of the diverse immigrant makeup throughout the City.

Additional risk factors for immigrant victims relate to the increased likelihood of ostracism or alienation from their family or religious, cultural, or ethnic community upon attempts to separate from their partners. Beliefs and attitudes against separation or divorce, even in the face of domestic violence, are potentially more likely among immigrants and serve as a deterrent to police reporting and leaving the batterer.

A compounding issue is that many immigrants are not fluent in English and sometimes lack literacy in their own written or spoken languages, and immigrant crime victims may sign legal or other documents without fully understanding the implications. Few translators in the New York area are fluent in certain dialects, and most are not specially trained to work sensitively with victims of domestic violence and other crimes.

Additionally, many non-English speakers utilize foreign language press that does not always include information about useful resources for victims of domestic violence. Group members expressed the need for community organizations and leaders to be sources of accurate information and support for those in need.

Finally, few service providers are specifically targeted to the needs of immigrant communities. And those that do exist are hindered by budgetary constraints and small staff-size.

¹²⁷ See *Futures Without Violence: The Facts on Immigrant Women and Domestic Violence* (n.d); Erez & Ammar (2003); and Dasgupta (2005).

¹²⁸ Cultural humility refers to “an interpersonal stance that is other-oriented rather than self-focused, characterized by respect and lack of superiority toward an individual's cultural background and experience.” See Hook, Davis, Owen, Worthington & Utsey (2013).

Recommendations for Immigrant Engagement

The recommendations provided by this working group highlight opportunities to address language barriers, to improve interactions with law enforcement, and to address misinformation within immigrant communities.

1. DANY and city partners will develop and implement ongoing criminal justice domestic violence training for service providers who work with immigrant communities, including sensitivity training for point-of-contact persons, such as security officers and receptionists.
2. DANY and OCDV will expand training for and partnership with foreign consulate staff.
3. DANY and OCDV will continue to hold trainings on domestic and sexual violence for the local foreign language press to foster efforts of community-based organizations and the media to educate immigrant and non-English-speaking victims about domestic violence.
4. DANY should work with the NYPD and OCDV to encourage the use of web-based interpreter applications in multiple languages to supplement interpreters and to provide information about the criminal justice process and the availability of services.

D. Hospital-Based Interventions

Medical centers such as hospitals, doctors' offices, and clinics are a primary means through which victims of domestic violence seek medical and mental health care for injuries and symptoms resulting from physical and sexual assault and abuse. In a 2011 study, almost 80 percent of victims of domestic violence sought medical care from emergency rooms at least once during the four years after an assault, and most of those sought emergency medical care an average of seven times each.¹²⁹ Many victims of domestic violence seek medical care and disclose abuse to medical providers multiple times before they ever engage law enforcement or other legal systems. Hospital and emergency staff are thus well-positioned to screen for domestic violence and provide support and resources to those in need.

The New York State Public Health Law obligates private and public hospitals to maintain and implement a protocol for patients who present with or may disclose domestic violence; such protocols must include (but are not limited to) screening for domestic violence and a system through which patients receive resources and referrals.¹³⁰ Additionally, the American Medical Association has clear directives regarding screening for and treatment of patients reporting or presenting with domestic violence.¹³¹ Medical providers in New York State, however, are not mandated to report domestic violence to law enforcement, with a few exceptions mostly related to injuries inflicted with a gun, knife, or other sharp object, and to serious burn wounds.¹³² Domestic violence that directly injures or

¹²⁹ See Rhodes et al. (2011).

¹³⁰ See New York State Office for the Prevention of Domestic Violence (2004); and Appendix 8 of this report.

¹³¹ See American Medical Association (2008).

¹³² NYS PL § 265.25. Certain wounds to be reported: Every case of a bullet wound, gunshot wound, powder burn or any other injury arising from or caused by the discharge of a gun or firearm, and every case of a wound which is likely to or may result in death and is actually or apparently inflicted by a knife, icepick or other sharp or pointed instrument, shall be reported at once to the police authorities of the city, town or village where the person reporting is located by: (a) the physician attending or treating the case; or (b) the manager, superintendent or other person in charge, whenever such

endangers children must be reported to the State Central Registry, and the police must be notified if a child is in immediate danger.¹³³

Working group members noted that among some hospital and emergency staff, however, there is resistance to conducting comprehensive domestic violence screening and interventions. Members reported that a majority of medical providers—attending physicians, residents, and nurses—still do not prioritize domestic violence as a public and individual health issue. Providers do not always consider or may minimize the well-established connection between domestic violence and healthcare, and believe domestic violence to be a social and legal problem beyond the scope of their expertise and professional obligations. Moreover, already over-burdened providers may feel that screening and intervention with domestic violence victims uses the most limited resource they have, time.

Another source of resistance to domestic violence screening and intervention comes from many providers' frustration and fear that they cannot fix the problem of domestic violence. Some providers believe that screening questions are intrusive and offensive. Even when there is no resistance to domestic violence screening, the necessary training may be infrequent or insubstantial. Significantly, there is no standardized citywide screening and assessment tool for medical and mental health providers.

Working group members determined that hospitals should create domestic violence protocols in line with the National Consensus Guidelines¹³⁴ that include screening questions (both direct and “framing questions”); risk assessment; follow-up services and referrals; and documentation, including checklists for symptoms in addition to injuries; and use of traumagrams. There is also a need to update hospitals' definition of domestic violence to coincide with the 2008 expanded definition of family members in New York State—a definition that acknowledges teen victims of domestic violence. Such protocols should be developed for multiple service sites, not only emergency medicine, such as those outlined in the National Consensus Guidelines.¹³⁵ Additionally, it was suggested that training should be expanded to include all clinical providers with direct patient contact.

Also noted was a need for enhanced evidence collection and coordination with law enforcement. When hospitals treat victims of domestic violence, the domestic violence program staff typically stores the majority of victim photos separately from the general medical record. As a result, when prosecutors subpoena hospitals for the complete medical record, which should include photographs of victim injuries, they do not always receive the photographs. Other evidence from victims of domestic

case is treated in a hospital, sanitarium or other institution. Failure to make such report is a class A misdemeanor. This subdivision shall not apply to such wounds, burns or injuries received by a member of the armed forces of the United States or the state of New York while engaged in the actual performance of duty; NYS PL § 265.26. Burn injury and wounds to be reported: Every case of a burn injury or wound, where the victim sustained second or third degree burns to five percent or more of the body and/or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound which is likely to or may result in death, shall be reported at once to the office of fire prevention and control. The state fire administrator shall accept the report and notify the proper investigatory agency. A written report shall also be provided to the office of fire prevention and control within seventy-two hours. The report shall be made by (a) the physician attending or treating the case; or (b) the manager, superintendent or other person in charge, whenever such case is treated in a hospital, sanitarium, institution or other medical facility. The intentional failure to make such report is a class A misdemeanor.

¹³³ See New York State Office of Children and Family Services (2015).

¹³⁴ See Futures Without Violence (2004) p. 11.

¹³⁵ See Futures Without Violence (2004) p. 11.

violence is not routinely collected by hospitals, unlike clothing and damaged property that is routinely gathered and stored for victims of sexual assault. There is also a clear need for ongoing training on documentation of strangulation. More generally, group members cited the lack of consistent evidence collection—including photography—by law enforcement when victims arrive by ambulance to the emergency room.

In light of the working group discussion, DANY met with the Fire Department of New York (FDNY) to discuss the need for Emergency Medical Services (EMS) staff to receive training on forensic documentation of domestic violence, as many victims receive care only on-scene from EMS. These instances can be a significant missed opportunity for evidence collection.

Once trained by DANY, EMS could be a significant partner in gathering evidence on domestic violence cases. Evidence collection could include documentation of excited utterances from victims describing the incident, detailed summaries of injuries, and forensic photographs of injuries. Collaborating with FDNY for training would have a significant impact on the collection of evidence in domestic violence cases. It will also enhance DANY's ability, in certain instances, to proceed with more evidenced-based prosecutions with or without the cooperation of a victim.

Recommendations for Hospitals and Medical Providers

The recommendations of this working group highlight opportunities to use medical professionals as an instrument for outreach to domestic violence victims. In particular, the group recommended that:

1. DANY, in collaboration with OCDV, will work closely with DV professionals from NYC hospitals, clinics, and urgent care centers to:
 - a. develop a new enhanced standardized screening and assessment tool to be disseminated to medical and mental health providers and programs;
 - b. train hospital and other healthcare personnel, including staff at clinics and doctors' offices, on using the domestic violence screening tool; and
 - c. establish referral pathways to Family Justice Centers and other resources.
2. DANY will provide medical and mental health staff (including emergency medical technicians) with training on forensic photography and medical record documentation related to domestic violence.
3. DANY will encourage hospitals to post domestic violence materials in hospital waiting rooms and restrooms, encouraging victims to disclose such violence to medical professionals.
4. DANY will explore collaborating with the New York City Fire Department (FDNY) to train Emergency Medical Service (EMS) staff on the value of evidence collection.

E. Family Court

Navigating Family Courts is central to many (if not most) victims' experience with domestic violence. Victims frequently seek civil orders of protection against their abusers and contend with divorce, child custody, child visitation, alimony, and child abuse proceedings. While numerous domestic violence victims initiate these proceedings, abuser routinely file petitions or make claims in Family Courts as a

means to maintain access to and coercive control of the victim.¹³⁶ It is common for domestic violence offenders to seek custody or visitation of children out of vengeance or in an effort to preserve physical contact with victims and/or drain the victims' financial resources through associated costs.

When in Family Court, the physical layout of the space itself can be problematic for domestic violence victims, as it sometimes requires that they share entryways and waiting rooms with batterers. Although officers are placed throughout courts, victims frequently report feeling unsafe because batterers and their proxies make threatening contact with victims in these settings.

Despite widely available educational and training resources on the dynamics of domestic violence and the intersection of child welfare and abuse with domestic violence,¹³⁷ working group members reported that some New York City Family Court judges, clerks, attorneys, guardians ad litem and custody evaluators demonstrate a lack of understanding and consideration of these dynamics as well as biases against female victims of domestic violence.¹³⁸ "Battered women are at higher risk of negative custody-visitation outcomes due to gender bias by courts, as documented by many federal, state, and local commissions that have studied such bias since the 1980s."¹³⁹ Much of this bias is expressed through the stigmatization of women reporting domestic violence and/or child abuse by the batterer, and the belief that women who allege domestic violence fabricate these allegations and those of child abuse.¹⁴⁰

Historically, in Family Court proceedings female victims were often deemed more "pathological"¹⁴¹ than the perpetrators, primarily because of the female victims' behavior and affect and because of gender role stereotypes. "[M]ale violence in the family, even when it is extreme and lethal, seems like a natural extension of male patriarchal authority in general."¹⁴² Women have been expected to provide as mothers, regardless of the circumstances, while "if a father seeks custody at all, a judge will often take the attempt at custody as prima facie evidence of paternal fitness."¹⁴³

Bias has also prevailed in many cases in which the co-occurrence of domestic violence and child abuse has led to charges against the victim-mother for failure to protect. According to domestic violence

¹³⁶ See Jordan (2004); Schneider (2000); Frederick & Lizdas (2003); Davis, O'Sullivan, Susser & Fields (2010); Bancroft & Silverman (2004); Bancroft (2002); Barasch (2015); Battered Women's Justice Project (2010); Dalton, C. & Schneider, E. M. (2001); Battered Women and the Law. Foundation Press: New York; Davies, Lyon & Monti-Catania (1998.); Meier (2013); Pearson (2012); Saunders, Faller & Tolman (2012) Domestic Violence Knowledge and Custody-Visitation Recommendations. National Institute of Justice; Dalton, Drozd & Wong (2006); and Pence & Sadusky (2009).

¹³⁷ For example, National Judicial Institute on Domestic Violence website; and National Council of Juvenile and Family Court Judges website. See Bancroft & Silverman (2004); American Psychological Association (1996); Battered Women's Justice Project (2013); Buffington, Dierkhising & Marsh (2010); Judicial Council of California (2008); Meier (2013); Pence & Sadusky (2009); Pilnik & Kendall (2012); and Kelly, Mazzone & Volkheimer (2012).

¹³⁸ See Saunders et al. (2012); Meier (2013); Davis et al. (2010); Chang (2015); Battered Women's Justice Project (2010); Battered Women's Justice Project (2013); Bancroft & Silverman (2004); and Bancroft (2002).

¹³⁹ See Saunders et al. (2012) p. 18.

¹⁴⁰ See Davis et al. (2010); Saunders et al. (2012); Battered Women's Justice Project (2013); Battered Women's Justice Project (2010); Meier, J. (2013); Schneider (2000); Bancroft (2002); and Dalton & Schneider (2001).

¹⁴¹ See Schneider (2000) p. 22.

¹⁴² See Schneider (2000) p. 154. See also Bancroft (2002); Browne (1987); Davis et al. (2010); Saunders et al. (2012); Larance (2007); Pence & Dasgupta (2006); Stark (2007); Jones (2000); Katz (2006); and Dalton & Schneider (2001).

¹⁴³ See Schneider (2000) p. 170. See also Bancroft (2002); and Dalton & Schneider (2001).

legal expert Elizabeth Schneider, “the mother, not the father who commits the violence, is likely to be held responsible for child abuse or neglect either because of her presumed failure to protect her child or because of her silence.”¹⁴⁴ And so, “failure to protect is a claim that can be used against her in custody disputes. On the other hand, if she flees suddenly with the children or wants to live far from her abuser, her actions are often interpreted negatively.”¹⁴⁵

According to multiple research studies, many Family Court personnel and litigators lack general knowledge of domestic violence, particularly post-separation violence, coercive control, and the risks to children involved.¹⁴⁶ Judges, attorneys, and court appointed evaluators often believe—mistakenly—that batterers cease to be a danger to victims and children once the couple has separated. The converse is true: victims of domestic violence regularly mediate the perpetrators’ danger to children by means of their presence and other protective strategies; post separation, batterers’ “retaliatory tendencies”¹⁴⁷ often result in the direct physical, sexual, and emotional abuse of children; and some batterers “have difficulty focusing on their children’s needs, due to their selfish and self-centered tendencies,”¹⁴⁸ culminating in neglectful parenting. Moreover, children in common with batterers may be at risk of manipulation, psychological abuse, abduction, and exposure to the abuse of the batterer’s new intimate partner.¹⁴⁹

Nevertheless, Family Court staff may dismiss the relevancy of domestic violence and discount the victims’ ongoing fears of the batterer and the risks to children in common: “Contrary to New York State statutes, some evaluators consider abuse of the mother irrelevant to visitation decisions as long as the father does not directly abuse the child.”¹⁵⁰ Victims of domestic violence involved in child custody hearings often report that their victimization was minimized or disregarded by evaluators, and that evaluators tended to believe allegations by batterers of the victims’ poor mental health.¹⁵¹ At the same time, a history of domestic violence is often undetected and/or undocumented, raising questions as to the depth and quality of assessment of some cases brought before the court.¹⁵²

To some extent, these decisions by Family Court actors are based on the theory that children of divorced or separated parents categorically benefit from ongoing access to both parents and the “development of post-divorce relationships with both parents.”¹⁵³ Previously, joint custody or co-

¹⁴⁴ See Schneider (2000) p. 153. See also Dalton & Schneider (2001); Bancroft (2002); Jones (2000); Stark (2007); and Browne (1987).

¹⁴⁵ See Saunders et al. (2012) p. 19. See also Chang (2015); and Schneider (2000).

¹⁴⁶ See Saunders et al. (2012); Davis et al. (2010); Battered Women's Justice Project (2010); Battered Women's Justice Project (2013); Bancroft (2002); and Bancroft & Silverman (2004).

¹⁴⁷ See Bancroft & Silverman (2004) p. 104.

¹⁴⁸ See Bancroft & Silverman (2004) p. 104. See also Bancroft (2002); Dalton & Schneider (2001); Davis et al. (2010); Meier (2013); and Saunders et al. (2012).

¹⁴⁹ See Bancroft & Silverman (2004); Saunders et al. (2012); Pence & Sandusky (2009); Meier (2013); Jones (2000); Dalton & Schneider (2001); and Bancroft (2002).

¹⁵⁰ See Davis et al. (2010).

¹⁵¹ See Saunders et al. (2012) p. 12.

¹⁵² See Saunders et al. (2012); and Davis et al. (2010).

¹⁵³ See Dalton & Schneider (2001) p. 340. See also Meier (2013); Saunders et al. (2012); Schneider (2000); Bancroft (2002); Battered Women's Justice Project (2013); and Davis et al. (2010).

parenting represented the ideal both in terms of children's best interests and parental rights, largely influencing Family Court decisions.¹⁵⁴ Many states even adopted "provisions explicitly favoring joint or shared custody arrangements."¹⁵⁵ This ideal, however, failed to account for the adverse effects of domestic violence between parents, disruptions in family life due to co-parenting, and child exposure to physical, sexual, and psychological abuse and manipulation by a parent. Over the past few decades, increased awareness and knowledge of the potential deleterious effects on children of joint custody when domestic violence and/or child abuse is indicated have resulted in changes in family law. More and more Family Court practitioners understand that "joint custody is always an inappropriate, and often an unsafe, arrangement when one parent has abused the other."¹⁵⁶ Currently, every state "lists domestic violence as a factor to be considered in custody decisions, and in many states it is given special weight."¹⁵⁷

Findings from a recent study surveying the beliefs about domestic violence by court staff, non-court staff, practitioners and evaluators in Family Court found that "judges, private attorneys, and custody evaluators were more likely than domestic violence workers and legal aid attorneys to believe that mothers make false allegations" of domestic violence.¹⁵⁸ This study echoed results from similar research regarding the assumptions and attitudes of Family Court practitioners, namely, "among custody evaluators, the belief that allegations of domestic violence by mothers are false was strongly related to four other beliefs: (1) domestic violence survivors alienate children from the other parent; (2) domestic violence is not an important factor in making custody decisions; (3) children are hurt when survivors are reluctant to co-parent, and (4) domestic violence survivors falsely allege child abuse. Similar results were found among judges."¹⁵⁹

Members reported that family law, premised on the "best interests of the child," continues to hold that access to and a relationship with both parents represents the ideal for children, notwithstanding domestic violence. Batterers' rights to their children supersede the danger in which children are placed by virtue of the domestic violence; indeed, violence toward a parent is seen as distinct and not *a priori* harmful to the children as well. Members reported that it appears some judges regard a "bad father" as better than no father, the history of abuse between female and male parents may not be factored into custody and visitation arrangements.

As a result of many judges, attorneys, guardians, and evaluators' misconceptions and lack of knowledge about domestic violence, batterers frequently win visitation rights and shared legal custody of children, even when risks to children are indicated.¹⁶⁰ According to several studies regarding child custody evaluations and outcomes, victims of domestic violence are usually awarded sole physical custody of children, but are regularly pressured into shared joint legal custody with their perpetrators

¹⁵⁴ See Dalton & Schneider (2001); Bancroft & Silverman (2004); Meier (2013); Saunders et al. (2012); Davis et al. (2010); Jones (2000); and Stark (2007).

¹⁵⁵ See Dalton & Schneider (2001) p. 350.

¹⁵⁶ See Dalton & Schneider (2001) p. 364.

¹⁵⁷ See Saunders et al. (2012) p. 28.

¹⁵⁸ See Saunders et al. (2012) p. 6.

¹⁵⁹ See Saunders et al. (2012) p. 8. See also Battered Women's Justice Project (2010); Battered Women's Justice Project (2013); Davis et al. (2010); Dalton & Schneider (2001); and Meier (2013).

¹⁶⁰ See Davis et al. (2010); Battered Women's Justice Project (2013); Meier (2013); Saunders et al. (2012); Dalton & Schneider (2001); and Schneider (2000).

and ordered to ensure that children have visitation with the non-custodial (abusive) parent.¹⁶¹ Furthermore, batterers are often granted unsupervised visitation despite evidence of child physical, sexual or emotional maltreatment. Occasionally, family members of the victim or batterer are called upon to supervise visits, a potentially dangerous alternative to supervised visitation centers. Similarly, reliance on police precincts to manage visitation hand-offs between parents is not always an adequate safeguard for victims.

Central to many of the shortcomings and dangers of Family Court are the role of private versus state actors, and the lack of due process. As outlined by the Child Custody Differentiation Project,¹⁶² considerable processes in Family Court take place outside the court—forensic evaluations, guardian interviews of children, and conferences between guardians, attorneys, litigants, and evaluators.¹⁶³ In fact, “for most non-judicial family court practitioners, *ex parte* communications are the rule not the exception.”¹⁶⁴ Unlike Criminal Court, attorneys and litigants do not have clear mechanisms to appeal or otherwise challenge various aspects of Family Court proceedings, such as custody evaluation reports. Moreover, many of the actors involved in the Family Court system are independent: “their authority is not constitutionally derived, but purely discretionary.”¹⁶⁵

According to many researchers and advocates, a related issue is the extent to which NYC Family Court practitioners—particularly court appointed forensic evaluators and guardians ad litem—are not required to have specialized training in domestic violence, nor is continuing education mandated.¹⁶⁶ Furthermore, there is a “wide variation across the evaluators in their awareness of and competence in assessing the critical issues in resolving custody disputes when there is a history of domestic violence.”¹⁶⁷ Significantly, the recommendations of evaluators and guardians carry tremendous weight in Family Court, often determining case outcomes (through settlement or order of the court): “Consequently, even though non-judicial family court practitioners are not *judges*, they often function as *de facto decision-makers* in family law cases.”¹⁶⁸

Currently, best practice guides for Family Court practitioners are available through several sources, particularly the National Judicial Institute on Domestic Violence,¹⁶⁹ the National Council of Juvenile and Family Court Judges,¹⁷⁰ the Battered Women’s Justice Project,¹⁷¹ and the American Bar

¹⁶¹ See Saunders et al. (2012); Meier (2013); Davis et al. (2010); and Battered Women's Justice Project (2013).

¹⁶² See Battered Women's Justice Project (2010).

¹⁶³ See Battered Women's Justice Project (2010); Battered Women's Justice Project (2013); Dalton & Schneider (2001); Davis et al. (2010); Meier (2013); Kelly et al. (2012); Saunders et al. (2012); and Dalton et al. (2006).

¹⁶⁴ See Battered Women's Justice Project (2010) p. 10.

¹⁶⁵ See Battered Women's Justice Project (2010) p. 7.

¹⁶⁶ See Saunders et al. (2012); Davis et al. (2010); and Battered Women's Justice Project (2013).

¹⁶⁷ See Davis et al. (2010).

¹⁶⁸ See Battered Women's Justice Project (2010) p. 10. See also Saunders et al. (2012); Battered Women's Justice Project (2013); Davis et al. (2010); Meier (2013); and Dalton & Schneider (2001).

¹⁶⁹ See National Judicial Institute on Domestic Violence website.

¹⁷⁰ See National Council of Juvenile and Family Court Judges website.

¹⁷¹ See Battered Women’s Justice Project website.

Association’s Commission on Domestic and Sexual Violence.¹⁷² These organizations also provide standards of practice and checklists, such as those available in the “Conditions of Visitation to Consider in Domestic Violence Cases” and “Checklist: Considerations in Visitation Decisions.”¹⁷³ Furthermore, many of the research studies cited in this report provide practical and valuable suggestions to improve Family Court outcomes and enhance safety for victims of domestic violence and their at-risk children. These studies recommend mandated training on domestic violence for Family Court practitioners; assessment of intimate partner and child abuse; clarification of the scope of assessments submitted by evaluators; and research and guidelines regarding the use of parental alienation.¹⁷⁴

Recommendations in this section, therefore, focus on the need for training on domestic violence for Family Court staff; the need for services to be victim-friendly; and issues with supervised visitation, attorneys for children, forensic evaluators, and the service of protective orders.

Recommendations for Family Court

The working group recommends that:

1. Family Court judges, attorneys, forensic evaluators, attorneys for children, clerks, and court officers should receive ongoing training on domestic violence and trauma so that they can make more informed decisions about the best interest of each child.
2. Video conferencing and e-filing options should continue to expand in Family Court and NYC Family Justice Centers to keep victims and abusers apart during court proceedings.
3. Family Court should offer evening hours to accommodate working families.
4. Family Court should consider creating more supervised visitation centers.
5. Certified interpreters should receive training on lawyer-client privilege, domestic violence, child abuse, and victim safety.
6. DANY and the NYPD should explore whether NYPD domestic incident reports and photographs may be made more accessible to victims and Family Court attorneys.

F. Offender Accountability

Holding batterers accountable for their actions—and working to change their attitudes and behaviors—is a key component to addressing domestic violence.

Some believe that domestic violence is caused by “anger management” issues; mental illness and substance abuse; exposure to domestic violence or abuse during childhood; or some combination of

¹⁷² See American Bar Association Domestic Violence Resources website. See specifically the “Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases.”

¹⁷³ See the workshop materials available for download from the National Judicial Institute on Domestic Violence website, in the educational opportunities section. See also Dalton et al. (2006); Kelly et al. (2012); Judicial Council of California. (2008); and Battered Women's Justice Project (2010).

¹⁷⁴ See Davis et al. (2010); Meier (2013); Saunders et al. (2012); Battered Women's Justice Project (2013); Battered Women's Justice Project (2010); and Kelly et al. (2012).

these factors.¹⁷⁵ As discussed below, although these batterer characteristics may have substantial impact on the severity and likelihood of abusive behaviors, they are risk factors for domestic violence, not causes.¹⁷⁶

With the exception of batterers who are indiscriminately abusive and coercively controlling toward all persons, poor impulse or anger control does little to account for behavior that is predominantly (if not exclusively) directed at their intimate partners. The same can be said for persons with mental illness or addiction; controlling and abusive behaviors directed at a specific person or occurring only in the context of an intimate relationship indicate a degree of deliberation and the exercise, not absence, of control.¹⁷⁷ Regarding batterer “anger management” or “problems controlling emotion,” domestic violence expert Lundy Bancroft writes, “the skills deficits of abusers have been the subject of a number of research studies, and the results lead to the following conclusions: Abusers have normal abilities in conflict resolution, communication, and assertiveness *when they choose to use them.*”¹⁷⁸ Nevertheless, violence outside the intimate relationship is a risk factor for domestic violence in general, and severe or fatal domestic violence in particular.¹⁷⁹

Among adults, violent behavior is not attributable to mental illness or chemical addiction: though many batterers meet the diagnostic criteria for mental illnesses—such as substance abuse, depressive, bipolar, post-traumatic stress, and the various personality disorders—most domestic violence perpetrators are not mentally ill (and most adults with mental illness, chemical addiction and/or trauma histories are not criminally violent).¹⁸⁰ Batterers with Antisocial Personality or sociopathy—both of which are highly correlated with violence—account for only a small percentage of abusers. In essence, there is no psychiatric profile for batterers;¹⁸¹ ample studies find that abusive partners are “psychologically indistinguishable”¹⁸² from nonviolent persons in relationships.

Nevertheless, mental illness and addiction are risk factors for domestic violence, factoring into abuse in significant ways. Principally, many survivors report that most physical and sexual assaults, or the more severe assaults, occur when the batterer is intoxicated.¹⁸³ Furthermore, the most violent and dangerous abusers have increased rates of mental illness.¹⁸⁴ Mentally ill persons who do not consistently take medication may be more dangerous off their medication; and addicts may be more violent when cycling through intoxication and sobriety and abstinence.¹⁸⁵ Lastly, domestic violence

¹⁷⁵ See Bancroft (2002); Katz (2006); Funk (2006); Bennet & Bland (2008); Campbell et al. (2003); Johnson (2008); Sharps, Campbell, Campbell, Gary & Webster (2003); Stark (2012); and Stark (1996).

¹⁷⁶ See Bancroft (2002); Katz (2006); Campbell et al. (2003); Johnson (2008); and Sharps et al. (2003).

¹⁷⁷ See Katz (2006); and Bancroft (2002).

¹⁷⁸ See Bancroft (2002) p. 44.

¹⁷⁹ See Block, C.R. (2003); Campbell (2001); and Johnson (2008).

¹⁸⁰ See Bancroft (2002); Johnson (2008); Stark (2007).

¹⁸¹ See Bancroft (2002); Stark (2007); Weitzman, S. (2000); and Kaser-Boyd (2004).

¹⁸² See Stark (2007) p. 69.

¹⁸³ See Bennet & Bland (2008); Campbell et al. (2003); Block (2003); and McKinney, Caetano, Rodriguez & Okoro (2010).

¹⁸⁴ See Bancroft (2002) p. 39.

¹⁸⁵ See Bancroft (2002); and Katz (2006).

incidents often occur during arguments *about* the batterers' medication or alcohol/drug consumption, not simply when the abusive partner is intoxicated or unmedicated.¹⁸⁶ Thus, mental illness and substance abuse, while not independent causes of domestic violence, exacerbate or otherwise contribute to the abuse.

For those domestic violence offenders who do have a diagnosed mental or substance abuse illness, treatment of such illness or addiction is not equivalent to treatment of abusive behavior; reduction of mental illness or addictive symptoms does not correspond to a reduction in coercive or physically abusive behavior.¹⁸⁷ Moreover, the process of recovery from addiction and mental illness is long-term, intensive, highly variable, and fallible; the prognosis for some mental illnesses—namely personality disorders—is particularly low. Survivors who choose to remain with an abuser in the hopes that therapy or substance abuse counseling will eventually decrease the violence may be in danger. Domestic violence itself is not an addiction.¹⁸⁸ Domestic violence and mental illness are distinct issues that demand distinct, appropriate interventions.

The two traditional approaches have been batterer intervention programs (BIPs) and incarceration. BIPs were established in the late 1970s and early 1980s as a means to reduce and prevent domestic violence, and provide an alternative to incarceration.¹⁸⁹ Domestic Abuse Intervention Programs in Duluth, Minnesota, created the most well-known and widely used curricula. Known as the “Duluth Model,” such BIPs focus on correcting perpetrators' sexist and strict attitudes and beliefs regarding gender roles, relationship dynamics, and acceptable behavior toward and treatment of intimate partners.¹⁹⁰

According to a large body of research, however, Duluth Model BIPs have not demonstrated reliable and meaningful efficacy at preventing or reducing recidivism (generally measured by re-arrest) or re-abuse,¹⁹¹ or in changing batterers' attitudes about their use of violent and controlling behaviors.¹⁹²

More recently, a number of BIPs have started to demonstrate success. Specifically, two studies found five group-based treatments for male DV offenders that as a collective, reduced DV recidivism by 33 percent.¹⁹³ Those programs were varied in their approaches, suggesting both that success is possible, and that there are multiple paths towards its achievement. Successful approaches have included: cognitive behavioral therapy (like trauma-informed programs), relationship enhancement, and substance abuse treatment.

¹⁸⁶ See Bennet & Bland (2008); and Bancroft (2002) p. 101.

¹⁸⁷ See Stark (2007); Bancroft (2002).

¹⁸⁸ See Stark (2007) p. 62; Bancroft (2002).

¹⁸⁹ The first programs were EMERGE and Domestic Abuse Intervention Programs, see websites for more details. See also Miller, Drake & Nafziger (2013).

¹⁹⁰ See EMERGE website; Domestic Abuse Intervention Programs website; Bancroft (2002); Katz (2006); Funk (2006); and Jackson et al. (2003).

¹⁹¹ See Feder, Wilson & Austin (2008); Salcido Carter (2010); Feder & Dugan (2002); Jackson et al. (2003); Klein (2009); Schneider (2000); Stark (2007); Jordan (2004); Koss (2000); Davies (2009); and Hawkins (2010).

¹⁹² See Feder & Dugan (2002); Jackson et al. (2003); and Feder et al. (2008).

¹⁹³ The authors of these studies note that, individually, all of these programs reduced DV recidivism but none of them had sample sizes large enough to reach statistical significance. See Arias, Arce & Vilarino (2013); and Miller et al. (2013).

Trauma-informed programs incorporate an understanding that many offenders were themselves the victims of trauma during childhood. Research suggests a link between childhood trauma and adversity and future domestic violence offenses.¹⁹⁴ Trauma-informed treatment for domestic violence perpetrators is a relatively new innovation. While there is not yet much results-based research on this new area as it relates to handling domestic violence offenders, working group discussions were promising.

Many organizations have endeavored to create new and effective batterer interventions, specifically programs that assess individual batterers and provide, accordingly, services and curricula tailored to their needs, behaviors, and demographics (e.g. employment, literacy, substance abuse, parenting, and mental health).¹⁹⁵ The Children’s Aid Society¹⁹⁶ of New York City operates one such program—a group for parents who have been abusive in their intimate relationships (with or without criminal justice involvement). In 2008, the Children’s Aid Society, in partnership with CONNECT¹⁹⁷ (a local anti-gender-based violence initiative), established the New York City Coalition on Working with Abusive Partners (CoWAP)¹⁹⁸ as a means to collaborate with similar organizations in building more effective batterer interventions. Rigorous evaluations remain outstanding, but working group members reported preliminary positive anecdotal feedback.

On a national level, many members of the domestic violence community have advocated for alternative approaches to criminal justice interventions that might hold batterers accountable while honoring the needs, wishes, and experiences of victims. Proponents of such alternatives point to the historical inability of law enforcement to address adequately many victims’ concerns and safety, particularly in communities of color,¹⁹⁹ and to what some refer to as the “one-size-fits-all”²⁰⁰ approach of many law enforcement interventions. Mediation and restorative justice programs have been the primary focus of these efforts, occurring parallel to, after, or instead of standard criminal justice proceedings.²⁰¹

Shifting the focus from BIPs, several issues were also raised by working group members regarding current probation and parole practices. Primarily, members cited the need for increased communication between these departments and DANY to ensure that decisions regarding parolees and probationers are collaborative.

Another concern is that ongoing reliance on victim testimony at parole and probation violation hearings represents needless endangerment of victims. Additionally, members noted that judges who

¹⁹⁴ See Reavis, Looman, Franco & Rojas (2013).

¹⁹⁵ For an overview on the need for interventions with offenders to be tailored to their specific needs, see Rempel (2014). See also Bancroft (2002); Johnson (2008); Mederos et al. (2005); and Jackson et al. (2003).

¹⁹⁶ See The Children’s Aid Society website.

¹⁹⁷ See CONNECT website.

¹⁹⁸ CoWAP meetings convene on a monthly basis. For more information, go to the CoWAP website.

¹⁹⁹ See Richie (2005); INCITE! & Sudbury (2005); Coker (1999); Frederick & Lizdas (2003); Dasgupta (2005); Burkemper & Balsam (2007); Crenshaw (1993); and Smith (2003).

²⁰⁰ See Brenner (2013); Burke (2007); Tuerkheimer (2004); Sechrist, Weil, Shelton & Payne (2012); Frederick (2001); Richie, B. E. (2005); Larance (2007); and Frederick & Lizdas (2003).

²⁰¹ See Burkemper & Balsam (2007); Frederick & Lizdas (2003); Ptacek & Frederick (2008); and Smith (2003).

preside over hearings can be insensitive to and unaware of domestic violence issues, and sanctions for batterers who fail to complete programs or violate the terms of parole are too often lenient.

At present, prosecutors are reluctant to rely on probation, given concerns regarding inconsistent success of probation policies in New York City. Group members commented on the need for increased resources and training for the parole revocation hearings of the State Division of Corrections and Community Supervision. One member discussed the use of probation and service coordination in other states (such as Idaho) to good effect, including the effective application of probation to misdemeanor offenders.

Offender Accountability Recommendations

The working group recommended the following:

1. DANY will spearhead and fund the development of new, evidence-generating batterer intervention programs in collaboration with community-based organizations. DANY contemplates implementing this recommendation through a grant program, administered through the CUNY ISLG, for the design, implementation, and evaluation of innovative BIPs, particularly trauma-informed programs.
2. DANY will explore working with the NYC Department of Probation to increase accountability and supervision of batterers, and in collaboration with OCDV will train probation staff on the dynamics of domestic violence and effective interventions with batterers.
3. DANY should work with the DOCCS parole staff to provide training on evidence-based prosecution and resources to increase sanctions for batterers and to curtail reliance on victim testimony at hearings. DOCCS should explore new models of parole supervision that incorporate swift and graduated sanctions.
4. DANY will explore incorporating domestic-violence-specific elements into current inmate reentry forums for violent offenders and create separate reentry forums for defendants convicted of domestic violence offenses.

G. Law Enforcement

Given that police play a key role in addressing domestic violence in New York City, it is critical that they have the best tools and training to respond to domestic violence. Police are often the first point of contact within the criminal justice system with victims of domestic violence, and victims' experiences interacting with the police often affect their involvement with other branches of the criminal justice system. Toward that end, working group members discussed how law enforcement services could better respond to domestic violence.

Many of the recommendations in this section focus on the use of technology, training, and approaches to improve this response.

Technology

Technology can have a major impact on survivors of abuse. It can be used to enhance victim safety, to monitor batterer accountability better, and to improve the ability of law enforcement to collect evidence. For example, technology can be used to preserve the first response of police officers to a

domestic incident. Body worn cameras would be able to capture what officers see when they arrive on the scene. These recordings could show an injured, distraught victim. They might capture her excited utterances at the scene and preserve the exact circumstances under which they were made, thus securing their admissibility at trial. The cameras could record the state of the victim's apartment, whether there is damage, or other evidence of struggle. They may record the statements of other witnesses at the scene, and perhaps, even the defendant's physical condition and first response to law enforcement. In short, body cameras have the potential to preserve the many details of a living crime scene in a way that hinges on neither the ability of police officers to recall and articulate what they saw, nor on the testimony of victims reliving what they survived.²⁰²

There is also a need to make it easier for victims to call for help, and for law enforcement to find those in need. Victims may not be physically able to provide their location, and they may not want their abuser to know that they have called the police. Unfortunately, emergency phones currently provided to domestic violence victims by the New York City Human Resource Administration (HRA) do not have a Global Positioning System (GPS) feature to identify and transmit victim location automatically.

Meanwhile, defendant-location-focused safety precautions that seem to work in other jurisdictions do not seem practical in Manhattan. GPS bracelets that monitor the whereabouts of defendants simply do not operate underground, which means defendants may be able to "pop up" at a victim's residence faster than law enforcement can be notified, providing a false sense of security. Furthermore, given Manhattan's compact and vertical nature, judges in New York County often permit defendants to live in the same building as a victim, or the same general geographic zone, despite any issuance of orders of protection.

Defendant alcohol bracelets, however, would have none of the above impediments. These devices measure the alcohol in the perspiration of the offender. Since alcohol is known to play a frequent role in domestic violence assaults, monitoring a defendant's sobriety may have an impact on recidivism.

Significant work can be done generally to improve crime scene evidence collection, which could potentially decrease reliance on victim testimony. Requiring victims to testify and cooperate with law enforcement exposes them to retribution from batterers and their families. It puts the burden of batterer accountability on the shoulders of those already most directly affected. Thorough evidence collection safeguards victims on multiple levels; it can potentially hold batterers accountable without further exposing victims to risk of harm.

Tools that better memorialize evidence could be used, such as those that use Alternative Light Source (ALS) technology to detect bruises beneath the surface of the skin that would ordinarily not yet be visible. Bruises occur when there is bleeding under the skin or in the soft tissue beneath it. In strangulation cases, bruising is rarely visible on the skin's surface; even in cases of strangulation that result in death, bruises are sometimes only detected below the skin after autopsy.

In this digital age, nearly all crimes of domestic violence involve some level of digital communication that corroborates the history of the relationship, the nature of the contacts, and often, the incident itself. As of now, this information is captured and preserved only on the most serious of offenses.

²⁰² Body cameras are currently being used to address concerns regarding police "Stop & Frisk" policies. As part of the 2013 court order to this effect, a federal monitor was appointed to oversee a one year pilot program. As part of any implementation plan to use these cameras in the context of domestic violence, DANY and the NYPD would consult with the federal monitor. See http://www.nytimes.com/2015/07/10/nyregion/federal-monitor-proposes-larger-trial-of-body-cameras-for-new-york-police.html?_r=0.

While law enforcement has protocols in place for securing and analyzing a defendant's cellular devices, securing this evidence from a victim's phone has often been relegated to a secondary concern after victim safety. Simply put, taking a victim's cell phone for evidentiary purposes has had the obvious side effect of removing that victim's ability to call for help. However, there now exist devices that easily connect to most cell phones and are able to extract quickly all data therein.

Digital scanners could digitize existing documentation to allow for swifter information sharing amongst law enforcement. For example, handwritten documents are prepared by victims upon reports of the crime that provide a signed, *sworn*, narrative of the events. By operation of law, these Domestic Incident Reports (DIRs) are maintained by the NYPD for no less than four years. However, while a typed summary of the DIR is uploaded to the NYPD database, the sworn document tends to reside in a physical file cabinet in each precinct. The current system can render the document inaccessible to prosecutors in a timely fashion, i.e. within the five-day period required to corroborate a misdemeanor complaint in order to keep a defendant held-in on bail. Possession of this hand-written, sworn, pre-arrest victim statement could mean that prosecutors would not need a victim post-arrest to sign and swear to a second affidavit of fact. This digitally available pre-arrest document could prevent the exposure of the victim to allegations that they are "cooperating" with prosecutors. At the same time, filing this document with the court can keep defendants incarcerated, and allow the commencement of a criminal proceeding.

Collaboration and Training

Beyond technology and metrics of incarceration, the "human element" remains vital. The presence of culturally sensitive advocates in precincts has been reported to increase satisfaction of victims, as well as police officers. These advocates can assist in liaison between victims and law enforcement. Currently in place at Police Service Areas (PSA) 4, 5, and 6, this program could be expanded to all precincts.

A new pilot program to address the negative impact of children's exposure to violence is also being funded by DANY. The Child Trauma Response Team (CTRT) will bring police officers and mental health professionals together in the aftermath of violent domestic violence incidents to coordinate an immediate, trauma-focused response, easing the suffering of these children and linking them to critical services right away. The goal of the CTRT is to coordinate efforts of the NYPD's 23rd Precinct, DANY, and Safe Horizon by providing a targeted, interdisciplinary response to children under the age of 19 and their affected family members living in the East Harlem section of Manhattan who are exposed to severe domestic violence. The goal of the mental health response is to prevent the onset of PTSD in these children and/or ensure that their chronic traumatic symptoms are treated.

In a randomized control trial conducted by the Yale Childhood Violent Trauma Center (CVTC), children who received Child and Family Traumatic Stress Intervention (CFTSI) were 65 percent less likely than comparison youth to meet criteria for full Post-Traumatic Stress Disorder (PTSD) at three month follow-up and were 73 percent less likely than comparison youth to meet combined criteria for partial and full PTSD at the three month follow-up.²⁰³

CFTSI will be delivered by Safe Horizon for children ages 7-18 that have recently experienced or witnessed a potentially traumatic event. When delivered shortly after the event, CFTSI has been shown

²⁰³ Steven Berkowitz, Carla Smith Stover and Steven Marans. "The Child and Family Traumatic Stress Intervention: Secondary prevention for youth at risk of developing PTSD," *The Journal of Child Psychology and Psychiatry* (2010).

to reduce significantly the likelihood of children developing post-traumatic stress-disorder. The intervention also incorporates the child's primary caregiver in order to ensure the caregiver's psychological health, as well as the caregiver's ability to give appropriate emotional support to the child.

Social workers will be linked with NYPD's domestic violence officers (DVOs) in Manhattan's 23rd Precinct, which has one of the highest incidences of serious domestic violence cases in the city. Safe Horizon social workers will be available to accompany DVOs in making home visits and meeting with families who have been identified as having children who are at risk. During these visits, the social workers will attempt to engage the youth and caregiver in follow-up sessions. A Safe Horizon Project Director will lead this coordinated, multi-disciplinary team response and will facilitate weekly team meetings, case reviews, ensure cross training, and will track data and outcomes.

Additionally, DANY and NYPD have already collaborated outreach efforts to local colleges and CBOs. Trainings have been held at NYC colleges and universities, at faith-based organizations, at consulates, and at the DANY Harlem and Washington Heights Offices. Existing educational programs in schools could be expanded to community centers. Programs could be developed to empower victims of domestic violence through art, dance, and music, focusing on the young, the elderly, those with special needs, and the immigrant population.

Finally, regular, joint trainings of NYPD officers could be conducted with DANY participation. DANY could conduct trainings with the NYPD at DOMSTAT, the Police Academy, at Borough Orientation for recruits, and at precinct Roll Call. The NYPD would participate in DANY felony and misdemeanor DV training. The Task Force also specifically proposed joint training to be conducted in pilot precincts centered on evidence-based prosecution and trauma-informed responses to domestic violence incidents.

Refocused Resources

Finally, any recommendations for law enforcement must include allocating existing resources in a more sophisticated manner that recognizes the differences between offenders. Analysis of large amounts of available quantities of data regarding arrest rates, recidivism, and the impact of court outcomes, has led to a large body of work dedicated to predictive policing in the form of risk assessment instruments (RAIs), none of which are currently being used in New York County.

Domestic violence RAIs have many different applications. Some risk assessment tools are designed so that they can be administered by law enforcement at the time of arrest. Some are designed for prosecutors, others for judges. Knowledge of risk can inform decisions about protection of survivors, treatment of offenders, charges, pretrial release, sentencing, probation conditions, custody, and visitation, among others. As of 2000, 18 states were using RAIs for sentencing decisions.²⁰⁴ The DVI conducted a detailed analysis of RAIs for law enforcement. Data currently exists to support use of several instruments for different purposes. The discussion of these RAIs can be found in Appendix 7, and this report later describes DANY's efforts to create a new instrument of its own.

Recommendations for Law Enforcement

1. Subject to approval by the federal monitor, all NYPD officers responding to domestic incidents should use body cameras to enhance evidence collection, and capture victim

²⁰⁴ See Roehl & Guertin (2000).

- injuries, demeanor, excited utterances, property damage, and defendants' physical condition and statements.
2. NYPD should utilize risk assessment systems to identify at-risk victims and the most violent offenders.
 3. The NYPD will expand city-wide its current program of placing culturally sensitive advocates trained in domestic violence at select precincts.
 4. DANY, in collaboration with MOCJ, is funding a \$1.1 million pilot in the 23rd Precinct where violent domestic violence incidents are met with a Child Trauma Response Team (CTRT) of police officers and mental health professionals. Using a program delivered by Safe Horizon, the pilot coordinates an immediate, trauma-focused response, specifically aiding children and linking them to critical services. If the program proves to be successful, it should be replicated throughout the city.
 5. NYC and DANY will explore the use of information-sharing, evidence-collection, and emergency-notification technology funded by the DANY CJII. This should include:
 - a. Upgrading all emergency phones provided to domestic violence victims to include caller ID and global positioning system (GPS) capability.
 - b. In cases in which alcohol appears to be an aggravating factor, using alcohol-monitoring bracelets to track the sobriety of domestic violence offenders.
 - c. DANY and NYPD training in utilization of alternative light source technology that can capture below-the-skin bruising to memorialize and corroborate victim injuries that would not ordinarily be visible to the naked eye.
 6. NYPD officers and FDNY Emergency Medical Service, with DANY and OCDV participation, should receive ongoing training centered on evidence-based prosecution and trauma-informed responses to domestic violence incidents.

H. DANY and Criminal Court

The issues facing domestic violence cases in the context of Criminal Court are not new; these cases have historically been plagued by high dismissal rates, congested court dockets, long adjournments, witness tampering by batterers, inconsistent compliance with sentences, and a need for training at all levels. These cases take more time, more resources, and more effort, and are less likely to yield quantitative results. Despite the severity, and statistical increase of domestic violence across the country, most cases end with their eventual dismissal.²⁰⁵ Survivors themselves frequently change their minds many times about their desired outcome for a criminal case, often with good reason as a significant body of research questions whether there actually is any impact of case outcome on

²⁰⁵ While many blame victim non-cooperation as the chief reason for such dismissal rates, many research studies include as relevant factors inadequate investigation and evidence collection by law enforcement. See Schneider (2000); Stark (2007); O'Sullivan et al. (2007); Bancroft (2002); Koss (2000); Nelson (2013); Jones (2000); and Kandaswamy (2006).

recidivism.²⁰⁶ Combined, these problems seem virtually insurmountable. Attrition rates are unsurprisingly high among domestic violence specialists due to issues of secondary trauma. The narrative regarding the role of Criminal Court in domestic violence is convoluted at best, and often disheartening.

Prosecution

Nationwide, domestic violence cases have extremely low conviction rates and are significantly more likely to be dismissed than other cases.²⁰⁷ In one 2003 New York City study, domestic violence cases were more than twice as likely to be dismissed than other cases, and only one-third of domestic violence cases resulted in conviction compared to over half of non-domestic violence cases.²⁰⁸

Fortunately, and unfortunately, the long standing nature of this far reaching problem means that it is possible to cull “best practices” from successful outliers in the field. To this end, DANY engaged with domestic violence experts, academic institutions, non-governmental “think tanks,” as well as other prosecutor’s offices.

A sophisticated approach to combating domestic violence must seek as goals: (1) to help victims gain the ability to be safe, independent of the criminal justice system,²⁰⁹ (2) to improve the relationship between victims and the criminal justice system in order to encourage future assistance/reporting when needed,²¹⁰ (3) to provide victims with the legal safeguards offered by orders of protection,²¹¹ (4) to develop strong relationships with partner agencies able to address the myriad of underlying issues that prevent victims from leaving their batterer,²¹² and (5) to perform a complex analysis of each criminal case in order to attempt to deter re-abuse through defendant accountability, in coordination with, and not at the expense of, the preceding goals.²¹³

²⁰⁶ Studies differ drastically in their conclusions about the effectiveness of arrest and prosecution on recidivism. Some have concluded that arrest actually increases rates of recidivism, and that rates of recidivism are not higher when incarceration is imposed as compared to “doing nothing.” See Wooldredge & Thistlethwaite (2001). However, more careful analysis seems to suggest that low risk abusers may simply be unlikely to re-offend, while high risk abusers may have their risk of re-abuse significantly reduced through the imposition of intrusive sentences, such as probation, and incarceration. See Klein (2009).

²⁰⁷ See Jordan (2004); Han (2003); Schneider (2000); Stark (2007); Nelson (2013); and O'Sullivan et al. (2007).

²⁰⁸ See Peterson (2003).

²⁰⁹ See Duggan (1992).

²¹⁰ Older studies reveal a 27 percent reporting rate among abused women. Many studies have found increases over time, with a height of more than 62 percent of victim reporting. See Klein (2009) p. 5. However, one study found prior abuse in almost 68 percent of those now reporting, and that reporting is highest among women with previous contact with law enforcement, more serious abusive histories, and existing orders of protection. See Klein (2009) p. 7.

²¹¹ Studies have suggested significant decreases, over 40 percent, between abuse before and after a victim obtains an order of protection. One interesting study notes that 86 percent of women reported that after they obtained an order of protection, the abuse reduced or stopped. However, 59 percent of women, in the same study, called police to report a violation of the order. See Klein (2009) pp. 58-59. It is also interesting to note that there is data suggesting that where domestic violence crimes are prosecuted as felonies, there are lower rates of recidivism. See Duggan (1992). In New York County, most violations of orders of protection are felonies. See New York Criminal Procedure Law §215.51.

²¹² Research indicates that victims are likely to leave their abusers and return up to seven times before leaving permanently. See Jordan (2004); and Jones (2000).

²¹³ The components of the law enforcement process, when taken together, have seen success. Police mandatory arrest policies, coupled with hotlines and other services for domestic violence victims, along with specialized domestic violence

“Victim First” Approach and WASU

To start with, an analysis of a variety of data about successful prosecution of domestic violence cases suggests that one of the most significant predictors of prosecutorial success is neither victim cooperation, nor the quantity of circumstantial evidence available, but rather, prosecutorial determination.²¹⁴ Meanwhile the greatest predictor of a guilty verdict in these cases, regardless of whether or not the victim “cooperates” with the prosecutor, is frequency of victim contact.²¹⁵ These points, and others, make the argument for highly trained prosecutors supervised closely by a staff of experienced, dedicated domestic violence supervisors.

In order to meet the specific needs of victims, DANY’s domestic violence prosecutors utilize the Witness Aid Services Unit, also known as WASU, to provide a variety of court-related services, social services, and counseling services to DV victims and to help facilitate a victim’s cooperation in the prosecution of criminal cases. WASU, created in 1975, was designed to meet the needs of all crime victims, witnesses, and their families involved in the criminal justice process. The unit not only provides victims with information related to the prosecution of the case, but also assists victims in understanding the criminal justice system, and provides information regarding crime victims’ rights.

WASU plays a vital role in DANY’s domestic violence prosecutions. When assistants with heavy caseloads, rigorous court assignments, and numerous trials, are unable to contact a victim immediately, a WASU worker is available to provide outreach. WASU provides DV victims support for the emotional trauma resulting from victimization and provides advocacy and continued support throughout the criminal justice process. WASU staff members are also available to keep in constant communication with victims and help identify any outstanding issues or complications that victim and their families may confront as criminal cases proceed. WASU is therefore prepared to meet victims where they are and guide them through the sometimes complex and overwhelming process. WASU will inquire and help facilitate, in appropriate DV cases, that restitution is requested, ensuring that victims are made whole.

The unit is accessible and located at four locations: 100 Centre Street, Special Victims Bureau 80 Centre Street, Harlem Office, and the Washington Heights Office. Spanish speaking staff is available in each of the departments. Interpreters for other languages, including American Sign Language, are also available. All services offered by the unit are free of charge, can begin at any time during the prosecutorial process, and can continue beyond the life of the case.

The WASU staff can:

- Provide crisis intervention, social services and clinical counseling services.
- Assist with safety planning, referrals to shelter, and relocation.

prosecution units that include domestic violence advocates and the *absence of a “no-drop” policy*. Research has shown that while “well intentioned,” no drop-policies may ignore the well-founded fear of victims that participating in prosecution may heighten their danger. Rather, “the most specialized prosecutor’s office... is one that permits victims to drop charges with the support of a domestic violence unit staffed by legal advocates.” See Duggan (1992).

²¹⁴ See Klein (2009); Adams (2007); Adams (1999); Albucher & Liberzon (2002); Aldarondo (2002); Apsler, Cummins & Carl (2003); Arias & Pape (1999); Austin & Dankwort (1998); Babcock, Green & Robie (2004); Babcock & Steiner (1999); Bass, Nealon & Armstrong (2004); and Belknap et al. (2000).

²¹⁵ See Klein (2009) pp. 6-7.

- Assist in government screening and advocacy.
- Provide victim rights information, assist the victim in understanding the criminal justice system, and provide victims with copies of New York County Criminal Court orders of protection.
- Serve as a liaison between victims and ADAs, NYPD, the court system, and other criminal justice agencies.
- Provide information about an inmate's custody status and help victims register for notification of an inmate's release from a correctional facility.
- Arrange transportation to court for victims and witnesses who are elderly, disabled, or injured; a wheelchair is also available.
- Assist DV victims in navigating the restitution process and seeking compensation from the New York State Office of Victim Services (OVS).
- Make referrals to the Manhattan Family Justice Center (MFJC) to assist victims with services regarding civil matters.

DANY also realizes that victims need to be able to access information about their cases both quickly and safely. In a modern age where most people have access to smart-phones, this information should be available almost in real time, solving issues caused when victims could either lose (or a batterer could withhold) physical copies of their orders of protection, or other paperwork. DANY has taken steps to make necessary documents accessible digitally so that information is more quickly accessible to victims in need. DANY will additionally work with partners to create a mobile phone application to provide victims of crime with access to services, information about their cases, and electronic copies of court documents.

This move towards digital media may have other uses as well. In addition to victims and service providers having better access to information, NYPD might utilize iPADS to obtain electronic signatures on supporting depositions. These e-documents could be transmitted to victims more quickly than paper, removing hurdles caused by either mail or fax.

Domestic Violence and Diversity Training

Before assistants can charge, indict, or take to trial any DV criminal case—they must be trained. It is not only important for assistants to understand the dynamics of domestic violence in the criminal justice process, but they must also be trained on how to interact with the diversity of victims that come through the office. For example, there must be an understanding of how to work with the mentally disabled, the deaf, and the LGBTQ community, while ensuring that no implicit biases negatively affect the criminal case. Enhanced training helps assistants interact better with the diversity of victims they meet daily.

DANY already has made significant steps/inroads in ensuring that all ADAs and support staff are trained and culturally competent to meet and work with these victims. For example, DANY's DVU regularly trains all DV assistants on how to work with deaf and disabled victims and the LGBTQ community. Research suggests that specialized training—such as that provided to prosecutors at DANY—that corrects misconceptions and broadens definitions of victimhood, might improve

investigations, Criminal Court outcomes, and victims' experiences with the criminal justice system.²¹⁶ Better-trained prosecutors and judges are also in a stronger position to inform jury members who have erroneous preconceived notions regarding victim and batterer credibility.²¹⁷

Many victims of domestic violence report greater satisfaction—and prosecutors and the courts report increased victim willingness to cooperate—when members of the criminal justice system communicate and engage with victims more frequently and empathetically.²¹⁸ DANY's own success with this model is encouraging when looking at an 87 percent increase in indictments after the creation of the Special Victims Bureau and the nearly 15 percent drop in the dismissal rate between 2009 and 2013.²¹⁹ Despite the recent success of the Domestic Violence Unit, more could still be done at DANY.

Reassessing Staffing Patterns

Given the high level of complexity involved in dealing with domestic violence cases, it is the suggestion of the working group that DANY explore the possibility of moving towards a model in which the most serious DV cases would be assigned to more experienced ADAs. Reassessing staffing needs so that DV cases are handled by more experienced ADAs will mean a more advanced level of practical trial expertise, and assistants with more time to dedicate to this complicated work.²²⁰ The most seriously threatening defendants should be handled by the most qualified and determined prosecutors.

Targeting the Highest Risk Offenders

Just as police resources must be refocused to reflect a sophisticated approach of data driven distinction between cases labelled as domestic violence, so too must DANY's. Acknowledging differing levels of seriousness or risk does not diminish the "less serious" cases, but rather, allows prosecutors to focus more time, energy and resources on the most serious cases, the victims who are at highest risk, and the defendants most likely to reoffend. Of the 7,035 domestic violence cases (of all kinds) that DANY prosecuted in 2014, over 70 percent were misdemeanors, 35 percent did not include a violent charge at the time of arraignment, and only 11 percent consisted of violent felonies.²²¹

In 2012, DANY partnered with the Laura and John Arnold Foundation (LJAF) to develop a data-driven tool for prosecutors to use as part of the decision-making process. The goal of the tool was to

²¹⁶ For example, see National Judicial Education Program (2010); Lonsway, Archambault & Lisak (2001); Lonsway (2001); Schneider (2000); and Mederos et al. (2005).

²¹⁷ See Tuerkheimer (2004); and Schneider (2000).

²¹⁸ See O'Sullivan et al. (2007); Han (2003); and Schneider (2000).

²¹⁹ In 2014, Criminal Court dismissals rose in conjunction with a sharp decrease in the hiring of new assistants in the wake of budget cuts. Even with 50 percent less staff devoted to new misdemeanor cases, the 2014 dismissal rate was eight percent lower than the pre-SVB rate in 2009.

²²⁰ It is important to note that the current vertical system of prosecution of domestic violence cases has been consistently found to be far more effective than horizontal prosecution. This necessitates the presence of multiple DV qualified ADAs available for intake of domestic violence cases both day and night. As approximately 25 DV cases are received daily by ECAB, it would be impractical to staff ECAB with only one DV qualified ADA per shift. Current ECAB staffing patterns would need to be revised in order to increase the level of seniority of ADAs handling new DV cases.

²²¹ New York County District Attorney's Office. (n.d). *Planning and Management Data*. Internal Document. New York, NY.

predict in an automated fashion the risk levels with regard to new criminal activity, new violence, new domestic violence, and bench warrants for each defendant processed at DANY.

In collaboration with nationally recognized criminal justice researchers, a comprehensive dataset of defendants and their risk factors was assembled and thoroughly analyzed, and a blueprint of risk factors was delivered to DANY. That blueprint served as a model for the risk assessment application, which scores defendants using a variety of factors and then provides a set of personalized risk assessments.

By using a defendant's New York State ID (NYSID), it is possible to count the number of prior arrests, convictions, and so forth. DANY also has robust internal tracking databases, which served as the basis for the dataset. In collaboration with DANY, the LJAF research team created a dataset of hundreds of variables concerning each defendant's criminal history and risk factors. Using feature selection techniques, a logistic regression model was trained and validated on a holdout sample using just a small subset of the variables. In terms of domestic violence, the key risk factors are:

- Is the current case DV? (yes/no);
- Prior orders of protection? (number);
- Prior DV cases in past 36 months (number); and
- Prior assault arrests (number).

The tool is now being beta-tested by DANY's planning and management staff and a pilot program explored. There remains the challenge of utilizing criminal records that do not always tell the complete story of a defendant's criminal history and do not keep a permanent record of Adjournments in Contemplation of Dismissal or violation dispositions. The current variables also do not include any history of Domestic Incident Reports (DIR) which at times can provide a more substantive domestic history of a defendant. An ongoing challenge will be educating prosecutors and other practitioners on the use of a statistically valid, yet somewhat opaque, process to assess defendant risk. Years of experience and training will never be replaced by an automated scoring system, but the goal is that the Project Genesis risk assessment will serve as another tool to help prosecutors assess and handle the thousands of cases prosecuted annually that fall under the umbrella of "domestic violence."

There is great potential for success when defendants face both significant sanctions and motivated prosecutors. For defendants to be deterred as rational actors they must know that if they commit these crimes they face the serious likelihood of strong sentences. "Swift and serious" sanctions have consistently proven to be a deterrent *when defendants believe they will be actually be imposed*.²²² Effective targeting of repeat offenders can be done internally at DANY. When high propensity batterers (HPBs) are identified via a combination of RAI, prosecutorial experience, and NYPD collaboration, they can be added to a priority-list using the DANY "arrest alert system."

The arrest alert system provides automatic email notifications when a defendant with an open case is arrested anywhere within the city's five counties. NYPD will also notify DANY when HPB defendants are wanted on open violent-felony domestic violence charges and DANY can add those defendants to the arrest alert system. This will allow DANY to coordinate with NYPD and arrange for domestic

²²² See Rempel (2014); and Dugan et al. (2003).

violence victims to get immediate safety planning through our WASU Unit while NYPD searches for the perpetrator/batterer. It will also ensure that charging decisions, bail applications, and sentencing recommendations accurately reflect each defendant's particularized impact on criminal activity within the community. Those defendants on the HPB priority-list should then be prosecuted vigorously for every subsequent and concurrent offense, whether or not these offenses are domestic-violence-related. Even where a domestic violence case itself may be difficult to win, easier-to-prove non-DV offenses of all levels offer an opportunity to obtain substantial sanctions. This strategy is another example of DANY's Intelligence-Driven Prosecution model, already used very effectively since 2010 to target gang violence in Manhattan.

Improvements in Court Practices

Simple changes in court practices could also address a number of logistical issues. Long court adjournments and the length of pendency of a case prior to resolution statistically decrease the likelihood of a successful outcome while increasing court congestion.²²³ In domestic violence cases, shorter adjournments may help facilitate a complainant's realistic expectation of when they may need to be available to testify at trial. Working group members suggested that a series of two week adjournments, instead of the current system in which adjournments are routinely in excess of 30 days, would facilitate faster resolution of cases. Keeping adjournments short would allow both prosecution and defense a reasonable time to prepare all but the most complex cases and simultaneously help to maintain contact with victims.²²⁴ Quickly resolved cases would lower court calendars potentially making more judges available for trials.

Working group members agreed that enhanced training for Criminal Court judges, staff, and personnel is essential and should be a top priority. Criminal Court arraignment parts are staffed by rotating judges, sometimes newly appointed with little-to-no criminal law experience, and frequently unfamiliar with the more complex and sophisticated issues that relate to domestic violence cases. These judges determine whether or not to set bail, whether to issue orders of protection and what form they should take, and sometimes rule on the legal issue of whether a Criminal Court complaint is sufficient to be deemed "an information."²²⁵

Those unfamiliar with the dynamics of domestic violence may be surprised to see defendants that do not present with the traditional indicators of "risk of flight" and may not understand the strength of an evidence-based prosecution and the risks of danger to the victim post-arrest. Orders of protection are particularly important at this stage; it is well documented that these defendants frequently continue to use abusive and coercive tactics against victims while cases are pending.²²⁶ Judges need to

²²³ New York County District Attorney's Office. (n.d). *All Hands Data*. Internal Document. New York, NY.

²²⁴ This system of two week adjournments is currently used in Queens County and is thought to have made a significant positive impact, according to conversations with Part D Judge Yavinsky.

²²⁵ In order to proceed with a misdemeanor case, the defendant must be charged with an information, which is an accusatory document that contains "non-hearsay allegations of fact" that make out the elements of the crime charged. *People v. Modica*, 187 Misc 2d 635 (Crim Ct., Richmond Co. 2001); CPL § 100.15; CPL § 100.40(b) (the accusatory document and a supporting deposition may be taken together); CPL § 100.20 (a supporting deposition may contain additional and different facts to support the charges in the accusatory instrument).

²²⁶ See Hawkins (2010); Eastal (2008); Felson & Pare (2005); and Dugan et al. (2003).

understand that as long as defendants are capable of endangering victims and their families, it is often simply not safe for victims to admit their victimization and terror or to act of their own volition.²²⁷

Judges must also be familiar enough with settled issues of law and be willing to apply the law to the facts of a case regardless of any personal position on the value of domestic violence cases. Criminal Court complaints based on hearsay exceptions, or sworn statements from witnesses that take unfamiliar forms, must be recognized as legally admissible ways to proceed with a criminal case.²²⁸ When cases are adjourned because of a judicial lack of familiarity with a different, albeit legally proper, way of proceeding with a case, it is frequently subtracted from the amount of “speedy trial time” wherein the prosecutor may bring a case to trial.

In terms of sentences, batterer intervention programs are frequently used as a means to hold batterers accountable—specifically, as a means to maintain batterers’ contact with the courts. However, many courts do not consistently impose further sanctions on those who are noncompliant²²⁹ nor do they have written protocols for sanctioning offenders who fail to complete BIPs.²³⁰ Another potential source of batterer accountability and increased safety for victims—probation and parole—is often untapped. Though such programs have been used effectively to hold batterers accountable in other cities,²³¹ those in NYC are overwhelmed and understaffed. Most batterers arrested for domestic-violence-related offenses re-abuse their victims and frequently violate protective orders.²³²

Preventing Gun Purchases by Domestic Violence Perpetrators

Additional training is certainly always needed for prosecutors themselves, and potentially also for court personnel and clerks. Compliance with efforts to sanction defendants properly and record data is essential. The issue of firearms possession is particularly illustrative. Even with an issue as fundamentally serious as preventing gun ownership by domestic violence defendants, new procedures, policy, and legislation require constant training and oversight.

Federal law prohibits defendants convicted of misdemeanor crimes of domestic violence (MCDV) from acquiring firearms.²³³ In 2011, New York State enacted amendments to the Criminal Procedure

²²⁷ In her expert opinion provided to the Supreme Court of the State of New York, County of New York, in the matter of *People v. Thomas Hoey*, docket number 2012NY025555, Kristen Slesar voiced concerns that a DV victim may continue to be in danger despite the defendant’s conviction.

²²⁸ Excited utterances, statements in medical records, sworn statements in Domestic Incident Reports, and even electronic signatures on affidavits, are all legally admissible ways to proceed on non-hearsay allegations.

²²⁹ See Turgeon (2007) p. 2.

²³⁰ See Labriola, O’Sullivan, Frank & Rempel (2010).

²³¹ For examples of the training of probation and parole officers and adaptations of their work to domestic violence offenders, see Mederos et al. (2005); and Reddick & Chapin (1999).

²³² See Klein (2009); Koss (2000); Schneider (2000).

²³³ The Federal statute prohibits gun possession by anyone who has been convicted in any court of a “misdemeanor crime of domestic violence” (MCDV). 18 U.S.C. § 922(g)(9). To trigger the ban, the crime may be a state or federal crime but must have “as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.” 18 U.S.C. 921(a)(33)(A). The U.S. Supreme Court just ruled that the statute applies not only to intentional and knowing crimes, but also to reckless ones. See *Voisine v. United States*, ___ U.S. ___, Slip No. 14-1-154 (June 27, 2016).

Law designed to ensure that cases that qualified as MCDV were identified as such in court and conviction records. The idea was to ensure that when a defendant's information was entered into the National Instant Criminal Background Check System (NICS) in connection with a prospective gun purchase, the conviction could be identified immediately as a disqualifying MCDV. The procedure has two components: (1) notice must be served on a defendant within 45 days of arraignment pursuant to CPL § 370.15 stating that one of the applicable domestic relationships exists; and (2) at the time of the conviction to a qualifying crime, the defendant must admit in the allocution to the nature of the qualifying relationship *or* the prosecution must prove the relationship beyond a reasonable doubt at a fact-finding hearing (assuming it was not already proven at a trial).

Analysis revealed that although much progress has been made in the past few years, NICS is not getting data on most cases that should have been classified as MCDV convictions. In other words, despite the fact that cases involved both one of the qualifying relationships and a conviction for one of the qualifying offenses—hereinafter referred to as “potential MCDV convictions”—a gap at some step in the process prevented most potential MCDV convictions from being designated MCDV and entered in the NICS database.

Based on data obtained from the New York State Office of Court Administration (OCA) and from within DANY, there were 306 potential MCDV convictions in 2014-2015 in New York County that were not designated MCDV to NICS. Of these 306 missed convictions, 107 defendants had at least one separate felony conviction, which would independently disqualify them from gun purchase. The remaining 199 missed convictions involved non-felon defendants who, absent some other disqualification, would not be disqualified from gun purchase after the expiration of any domestic-violence-related protective order.

There is clearer evidence of compliance with the notice step than the admission/adjudication step. In 2014 and 2015 through mid-summer, in New York County, notices were served at arraignment in approximately 82 percent of the eligible cases, significantly more often than in the first years after the New York State amendments were enacted. The composite statistic results from notice being served in 89 percent of misdemeanor cases and 25 percent of felony cases. Only a handful of notices were filed post-arraignment.

Even with the high rate of notice in misdemeanor cases during 2014-2015, only 37 percent of all misdemeanor convictions that might have qualified to be entered into the NICS database of MCDV convictions were in fact transmitted to NICS for entry. In other words, almost two-thirds of potential MCDV convictions were missed, i.e., never designated as such in the court records and thus never designated as such to NICS. The defendants in those missed cases, unless otherwise barred from gun purchase due to some other circumstances, would be able to pass a background check and to purchase a firearm. The 37 percent designation rate in 2014-2015 was a substantial improvement over the two prior years, but is still plainly too low.

There were major discrepancies between court parts in how frequently a case was properly dealt with as a MCDV. In Criminal Court Part D (the domestic violence part), in cases in which CPL § 370.15 notice had been served at arraignment, fully 55 percent of the cases were ultimately identified to NICS

as MCDV. This was the best record of any court part. Nevertheless, 140 potential MCDV convictions resolved in Part D were missed, 45 percent of the total number of eligible cases resolved in that Part.

Cases that originally were written up as felonies—presumably the more serious cases—but that pleaded out as potential MCDV convictions were most likely to be missed. These cases included 108 missed cases disposed of in Part F (the court part that handles felony charges pre-indictment but post-arraignment). In Part F, 93 percent of the potential MCDV convictions resolved there were missed, compared to only 7 percent that resulted in NICS notification. Even worse, not one of the 38 potential MCDV convictions in any Supreme Court part (including the Integrated Domestic Violence Part) was designated MCDV for notification to the NICS database. And although only 13 potential MCDV convictions resulted from trials in all parts (as opposed to pleas), all but one of those trial convictions was missed.

Without access to internal databases, it is not possible to assess fully the MCDV designation procedures in other counties. Having found New York County's internal data to be roughly consistent with OCA's data, however, it appears from OCA's data that New York City as a whole is experiencing the same gaps in the MCDV designation process, with the best record of compliance in Queens County and the worst one in Richmond County. Over 80 percent of the MCDV notifications for New York State result from New York City cases. It appears that counties outside New York City have even farther to go to eliminate gaps in the MCDV designation process.

One solution may be that DANY create a form to be used at the time of a relevant plea. This form would provide a place for the defendant to acknowledge his relationship to the victim in writing and would notify the defendant of the consequent firearms license revocation. Copies would then be provided to the defense, the court, and the prosecutors. If a defendant refused to allocute to the relationship, this form would serve as a physical reminder to the court and the prosecutors that if the plea goes forward, a hearing should be ordered to litigate the issue. These forms would also provide a reminder to court clerks to make the computer entry required to report the case to OCA.

DANY is actively part of several committees, including a working group focused on DV and Guns through OCA, to discuss with stakeholders the need for and mechanisms of firearm revocation. All parts of the system must work together to solve this problem and prevent the potentially deadly consequences that could result from bureaucratic error.

Given the seriousness of these cases, survivors of domestic violence should be entitled to as much a chance of success as possible, with far less of their outcome contingent on the random variable of which clerk, prosecutor, and judge handles a case. Data driven process, ongoing training, and close supervision by specialized experts committed to these cases is essential. Only rigorous, consistent application of all available tools can change the narrative surrounding domestic violence. DANY must reclaim the sanctioning power of the criminal courts to put batterers on notice that domestic violence will not be tolerated. Only when offenders truly believe that this type of crime will be met with serious consequences can there be a deterrent effect.

Recommendations for DANY and Criminal Court

To address this range of issues, the working group recommends the following:

1. DANY should implement trauma-informed training for all ADAs, including distribution and enforcement of official domestic violence protocols.

2. DANY domestic violence cases will continue to be overseen by experienced practitioners and specialists. DANY will explore staffing assignments for all domestic violence cases and consider having the most serious cases prosecuted by experienced ADAs with specialized training.
3. The Office of Court Administration (OCA) should continue ongoing training in both the dynamics of domestic violence and surrounding legal issues for all Criminal Court judges, as well as for court staff, and collaborate with prosecutors and the defense bar on trainings involving relevant domestic violence issues. DANY recommends that the Mayor's Office to Combat Domestic Violence develops and implements a citywide training institute.
4. NYC should develop and utilize a validated risk assessment tool to identify high-propensity batterers; DANY and NYPD should collaborate to add such defendants to priority lists and arrest alerts.
5. Courts should adjourn cases for shorter periods (e.g., two weeks in lieu of 30 days or more) to resolve cases more efficiently.
6. Courts should adopt protocols for sanctioning DV offenders who fail to complete BIPs and/or probation.
7. DANY will create an internal Manhattan Domestic Violence Fatality Review Committee to evaluate, review, and develop recommendations to improve law enforcement coordination and responses to reports of domestic violence.
8. DANY will request restitution in appropriate cases and work with Safe Horizon to ensure that domestic violence victims are appropriately compensated.
9. DANY and courts should improve protocols for misdemeanor crimes of domestic violence (MCDV) including:
 - a. 100 percent adherence to the required notice protocol in eligible cases, as well as all domestic violence felonies;
 - b. DANY's continued training of all ADAs who handle domestic violence cases on MCDV plea requirements and, in the absence of defendant admissions as to the qualifying relationship, the need to attempt to prove those relationships in court; and
 - c. An assessment by DANY of past cases with missed MCDV designations to determine how to avoid future missed designations and to determine whether steps may be taken to remedy past deficiencies.
10. DANY will work with partners to create a mobile phone application to provide victims of crime with access to services, information about their cases, and electronic copies of court documents. DANY will collaborate with NYPD to use iPADS to obtain electronic signatures on supporting depositions.

I. Legislation

Working group discussions revealed a significant number of gaps in the tools available to combat domestic violence. Several suggestions for legislative recommendations were discussed and proposed

to correct deficiencies in the law. Though these recommendations focus on issues of criminal law, their impact would be multi-disciplinary and far reaching.

Statement of problem: Sealed Cases

Prosecutors are unable to obtain records of prior cases, sometimes including active orders of protection, when records of cases are sealed either pursuant to non-criminal disposition or pursuant to dismissal.

Issue explained:

When defendants plead guilty to violation offenses such as Disorderly Conduct, PL § 240.20 or Harassment in the Second Degree, PL § 240.26, orders of protection are often issued and in effect for two years.²³⁴ However, pursuant to CPL § 160.55, court records are sealed, including transcripts and court files, after the terms of a sentence are completed. Cases are also sealed pursuant to CPL § 160.50 upon dismissal. The consequences of these sealing requirements can be severe. If there is a violation of an order of protection that results in an arrest after the case is sealed, all court records of the defendant receiving the order are unavailable. That means there may be no proof the order was issued, and often no way to prove that the defendant had knowledge of it. This problem frequently occurs when a violation of an active order of protection is not disclosed until much after the fact, a common occurrence on domestic violence cases. At that point, it may be difficult to obtain certified copies of the order of protection itself, rendering the prosecution of violations of that order nearly impossible.²³⁵

Historically, prosecutors could rely on CPL § 160.50(1)(d) and § 160.55(1)(d), which authorize law enforcement agencies to apply for an order to make sealed records available where need is demonstrated to “the satisfaction of the court.” However, a series of judicial decisions have precluded that avenue, deciding that prosecutors are not to be understood as a “law enforcement agency” for this purpose, denying them this ability.²³⁶

In many ways, this legislative issue renders orders of protection effectively moot in hundreds of cases each year.

Proposed solution:

A legislative amendment that enables prosecutors to access sealed records of prior domestic violence offenders after the commencement of another domestic violence proceeding. Prosecutors could either be added to the language of CPL §§ 160.50 (1)(d) and 165.55(1)(d), or generally added as a law enforcement agency along with police and peace officers for all penal and criminal procedure law purposes.

²³⁴ CPL § 530.12(5)(c).

²³⁵ The legislature tried to address this problem by enacting CPL §170.10(8-a), which creates a procedure whereby convictions for Harassment in the Second Degree, PL §240.26, may not be sealed where notice of a family relationship is served if it is later adjudicated either by plea or by trial. However, these new procedures have not solved the problem in the vast majority of cases citywide. As a practical matter, even where the procedures are followed, this information is rarely noted in the defendant’s criminal history.

²³⁶ *Matter of Katherine B. v. Cataldo*, 5 NY3d 196 (2005); and *People v. Marcus A.*, 28 Misc 3d 667 (S. Ct. N.Y. Co. 2010).

Statement of problem: Dismissals pursuant to CPL § 730

When a misdemeanor defendant is found to be a mentally “incapacitated person,” the charges against him are dismissed, along with any pending orders of protection.

Issue explained:

CPL § 730.40(2) requires dismissal of a local accusatory instrument when the defendant is found either to lack the capacity to understand the proceedings against him or to assist with his own defense. This means that in cases of stalking, and other non-felony crimes, defendants who are found unfit to stand trial have their cases dismissed. The result are twofold: (1) victims are left without orders of protection, and (2) defendants are unsanctionable until they commit more serious (felony level) crimes. Even if a misdemeanor is indicted, if the Superior Court finds the defendant unfit, the indictment must be dismissed.

This problem is not unique to domestic violence cases. It arises any time a misdemeanor defendant is found unfit to stand trial.

Proposed solution:

A legislative amendment that (1) permits the reinstatement of criminal charges should a misdemeanor defendant later become “fit”; and (2) amends CPL § 730.50 so that an indictment charging a crime less than a felony need not be dismissed if the defendant is found unfit.

Statement of problem: Sentencing limits for multiple offenses

Current sentencing limits for multiple offenses prevent domestic violence defendants from being truly held accountable.

Issue explained:

As noted earlier, victims of domestic violence often do not report crimes against them until several have occurred. However, the penal law currently mandates a maximum aggregate sentence for crimes. While this “cap” can be quite high in the event of violent felony convictions, the sentence for any number of simultaneous misdemeanor convictions aggregates to no more than two years. This means that defendants who are charged with many misdemeanor offenses committed over years cannot be punished more severely than defendants convicted of two distinct misdemeanor crimes.²³⁷

Given the frequently cyclical nature of domestic violence and the reluctance of victims to report crimes, legislation is warranted—similar to other “course of conduct” offenses—to enhance the available sentence when multiple crimes are committed within a specified period of time.

In 2012, DANY spearheaded the passage of Aggravated Family Offense, PL § 240.75, creating an E felony level crime for defendants who commit a specified family offense after having been convicted of such an offense in the last five years. This law has been met with great success, and has been used by DANY to secure a higher than 70 percent conviction rate on charged cases.²³⁸

²³⁷ PL § 70.30 (2) (b) places a two-year limit on the term of consecutive definite sentences. *People ex rel. Ryan v Cheverko*, 22 NY3d 894 (2013).

²³⁸ New York County District Attorney's Office. (n.d). *Planning and Management Data*. Internal Document. New York, NY.

This success could be taken further by continuing to enhance penalties for repeated conduct. As of now, any number of multiple convictions of Aggravated Family Offense remain E non-violent felonies, the lowest level felony. A staggered system of repeated convictions could more appropriately sanction repeat offenders.

Proposed solution:

- The addition of a subsection to the existing Aggravated Family Offense whereby three or more specified misdemeanor offenses committed within a period of six months may be charged as a felony, even if the defendant had not previously been convicted of a family offense.
- A legislative amendment creating a new First Degree “Aggravated Family Offense” as a D felony level crime for a defendant who commits a specified family offense after having been convicted within a five year period of committing two or more of any of a group of specified prior offenses against a member of his or her family or household. The existing E felony “Aggravated Family Offense” would become Aggravated Family Offense in the Second Degree.

Statement of problem: Witness Tampering

Because criminal contempt, witness tampering, and witness intimidation crimes carry low sentences, current laws fail to dissuade defendants from violating orders of protection and making efforts to prevent witnesses from testifying.

Issue explained:

Defendants frequently violate post-arrest orders of protection in order to entreat victims not to testify against them. These efforts can take many forms, but frequently domestic violence defendants use emotional coercion, offering withheld affection and playing to deep-seated psychological needs borne of these complex relationships. The cycle and mechanisms of this type of abuse has been compared to Stockholm Syndrome and other recognized forms of torture. As a result, a defendant in a pending case asking a victim about their child in common, sending gifts, or making other reconciliatory overtures may decimate a witness’ willingness to continue to cooperate with law enforcement.

Non-threatening violations of orders of protection and witness tampering, while effective, are generally chargeable as Class A misdemeanors. This is true whether a defendant is charged with a non-criminal offense or the most violent of crimes. Tampering with a witness on an attempted murder case exposes a defendant to a maximum of one year jail for thwarting a sentence that may be as much as life in prison. While the psychological dynamics make tampering effective, the legal dynamics of sentencing make tampering a very acceptable risk. To stop this practice, the sentence for non-violent witness tampering on domestic violence cases must be higher.

Proposed solution:

- Create a new felony of “Tampering With A Witness On A Family Offense” for *any* attempts to induce or compel a person not to testify truthfully in a proceeding involving relationships designated as family offenses under CPL § 530.11. To reduce incentives to tamper, the working group proposed that sanctions would be the lesser of either the crime charged in the pending proceeding or a C Violent Felony.

Statement of problem: Stalking

Stalking is currently undercharged and fails to recognize the realities of “cyber stalking.”

Issue explained:

The crime of Stalking In The Fourth Degree, PL § 120.45, makes it a B misdemeanor when a defendant engages in “a course of conduct directed at a specific person and knows or reasonably should know that such conduct is likely to cause reasonable fear of material harm to the physical health safety or property of such a person . . . or is likely to cause such person to reasonably fear that his or her employment business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person’s place of employment or business” Place of business has been narrowly construed *not* to include emails received at a victim’s professional email address.²³⁹ This omission ignores the reality of commerce in the “digital age,” where some enterprises are conducted entirely via email without a physical space.

Furthermore, in order to elevate criminal conduct to a felony, Stalking in the Second Degree PL § 120.55 requires a number of unnecessarily extreme factors. For example, under PL § 120.55(5), the felony is committed when a defendant “commit[s] the crime of stalking in the third degree . . . against ten or more persons in ten or more separate transactions”

Proposed solution:

Each existing level of Stalking should be raised one higher. This would make Stalking in the Fourth Degree a Class A Misdemeanor, Stalking in the Third Degree a Class E Felony, and so forth. Additionally, “place of business” should be defined to include internet accounts, social media, and email addresses that are designated as business accounts.

Statement of problem: Batterers Access To Firearms

Because firearms possession by batterers correlates strongly with homicide, it is imperative to strengthen existing laws regulating batterers’ access to guns. Current laws do not precisely delineate compliance mechanisms when defendants are ordered to surrender their firearms. Additionally, the list of convictions that prevent the purchase and possession of firearms or ammunition in New York State is under-inclusive.

Issue explained:

Access to firearms greatly increases the risk of lethality in domestic violence cases. Women are five times more likely to be killed by their abuser if the batterer owns a firearm. As compared to assaults without firearms, the likelihood of death in DV cases where guns are used is 12 times higher.²⁴⁰

New York State has a number of provisions in place to remove guns from the hands of batterers. Judges in both Criminal and Family Court cases are able to suspend a batterer’s firearms license, and to order the immediate relinquishment of any guns. These conditions can last as long as any orders of protection (OPs) to which they are attached.²⁴¹

²³⁹ *People v. Marian*, 2015 NY Slip Op. 25231 (Crim. Ct. N.Y. Co. 2015).

²⁴⁰ <http://smartgunlaws.org/domestic-violence-and-firearms-statistics/>.

²⁴¹ NY. Fam. Ct. Act § 842-a(1), (2), § 828(1)(a), (3); CPL §§ 530.12(1), 530.14(1)(a), (2). *See also* PL § 400.00(1)(e).

In a criminal case, OPs issued at the time of the defendant's arraignment may continue temporarily during the pendency of a case, and may then be issued post-plea or conviction as a condition of sentence. Final OPs commonly last eight years after conviction on a felony, five years after conviction on a Class A misdemeanor, and two years after a conviction for any other offense. Where a perpetrator is sentenced to jail or prison, the period of a final OP runs from the maximum expiration of the sentence term.

When requesting an OP, DANY prosecutors are trained to ask that a defendant's license or permission to possess a firearm should be revoked where relevant. DANY staff ranging from prosecutors to those in the Witness Aid Services Unit (WASU) are trained to ask each victim about a defendant's access to weapons and firearms in order to assess the victim's safety. ADAs are additionally trained to use both a defendant's criminal history, as reflected by the defendant's eJustice rap sheet, as well as prior Domestic Incident Reports (DIRs) that may indicate whether a defendant has ever used (or threatened to use) a firearm regardless as to whether any case(s) resulted in a conviction for that conduct. ADAs are continuously made aware of the need to assess whether a defendant has access to firearms. Supervisors at all levels routinely focus on cases that involve even the threat to use guns. These cases also often receive the benefit of enhanced assistance and resources offered by DANY's Crime Strategies Unit in addition to DANY's Domestic Violence Unit.

In a Family Court matter, a petitioner can apply to a judge for an ex parte order which then must be served on the batterer and temporarily continues until there is a finding by the court that a family offense has occurred. If that happens, "final" Family Court OPs typically last either two or five years after the finding of guilt.²⁴²

Beyond the mechanism of an OP, there are other safeguards under New York State law already preventing firearms ownership by batterers. Defendants convicted of certain offenses are rendered ineligible to possess or obtain a firearms license, ammunition, or specific guns. The offenses in question are defined to include any felony, as well as "other serious crimes" described as: "illegally using, carrying or possessing a handgun or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry into a building; aiding escape from prison; certain kinds of disorderly conduct; certain drug offenses or crimes involving sodomy or rape; child endangerment; certain crimes permitting or promoting prostitution; or certain kinds of stalking." The weapons in question are defined to include "any handgun, short-barreled rifle, shotgun, antique firearm, black power rifled, black power shotgun, any muzzle-loading firearm, or assault weapon."²⁴³

This list of convictions that currently bar gun ownership and licensing in New York does not include a variety of crimes commonly associated with domestic violence cases. Convictions for assault, strangulation, menacing, coercion, criminal contempt, and tampering with a witness currently do not themselves remove guns from the hands of batterers under New York State law.²⁴⁴ Even the previously discussed Federal law focuses exclusively on crimes of physical violence.

Furthermore, New York State's procedure to comply with revocation of firearms licenses is archaic at best. PL § 400.00, which relates to the License to Carry, Possess, Repair and Dispose of Firearms, is 19 pages long. Ultimately, it provides that when suspension/revocation does happen, the official

²⁴²https://www.nycourts.gov/courts/nyc/family/faqs_domesticviolence.shtml.

²⁴³ <http://smartgunlaws.org/prohibited-purchasers-generally-in-new-york/>. PL §§ 400(1), 265.00(17).

²⁴⁴ As previously discussed federal law does prohibit some batterers from possessing guns as per 18 U.S.C. § (g)(8), (9).

revoking a license is supposed to provide the Executive Department, Division of State Police in Albany with written notice and also notify local police authorities. Should such license and firearms not actually be appropriately surrendered, law enforcement is empowered to seize them. However, there are no clear mechanisms in place to ensure these things happen.

Members of DANY as part of the Sex Crimes and Family Violence (SCAFV) legislative sub-committee of the New York State Prosecutors Association are currently in the process of exploring the idea of further criminalizing possession of a weapon in violation of a court order. This legislative proposal would place the burden squarely on the defendant to comply with any removal, rather than placing the onus on law enforcement to develop statewide compliance mechanisms.

In October of 2015, New York District Attorney Cyrus Vance participated in the Prosecutors Against Gun Violence coalition (PAGV), which produced a report detailing the combined recommendations of more than 32 local prosecutor's offices nationwide. The proposed legislation below is tailored to the specific gaps in New York State firearms law, in accordance with the findings of the PAGV.

Proposed solutions:

- Expand the list of convictions that disqualify a convicted defendant from firearms possession to include all crimes of domestic violence as currently defined under Aggravated Family Offense, PL § 240.75.
- Establish a clear compliance mechanism to ensure that people ordered to relinquish their firearms actually do so. In Oregon, and several other states, defendants are required to submit either proof of legal firearms surrender or transfer, or an affidavit that they are not in possession of any firearms. When defendants fail to comply, law enforcement may then be authorized to search for and seize any guns. This compliance mechanism should apply to firearms possession disqualification and suspension by both OPs and conviction. Failure to provide proof of compliance could itself become either a Class A Misdemeanor, or could be prosecuted under the existing crime of Criminal Contempt in the Third Degree, for failure to comply with a lawful order of the court.
- DANY should continue working as part of the New York State Prosecutors Association Sex Crimes and Family Violence (SCAFV) legislative sub-committee to explore the idea of further criminalizing possession of a weapon in violation of a court order. Specifically, it has been proposed that a new subsection could be added to the existing felony contempt statute, which would render such possession a D or E felony.

III. CONCLUSION

The tremendous undertaking involved in the DANY Domestic Violence Initiative has renewed the multi-disciplinary collaboration by experts to explore existing problems and work towards a better process for survivors, abusers, service providers, and government agencies. In every working group and every stakeholder conversation throughout the DANY Domestic Violence Initiative information-gathering process, experts expressed the need for these conversations to continue, and for the need for advanced ongoing training for the many involved stakeholders. These must be our most basic and highest priorities.

Serving victims most effectively requires training frontline staff throughout city agencies, law enforcement, health care settings, and in community-based organizations in trauma-informed practice. In order to do this effectively and comprehensively, DANY recommends that the Mayor's Office to Combat Domestic Violence develops and implements a citywide training institute.

It is clearer than ever that a truly coordinated community response is required to address the issue of domestic violence in New York City. We therefore call upon our partners across city agencies, in law enforcement, in the health care system, and within NYC communities to work with us in implementing the recommendations outlined here. Dealing with domestic violence effectively means both addressing the needs of the most vulnerable victims, and also making an effort to face and change deeply embedded social norms and values.

For its part, DANY commits to training its staff, legal and non-legal, to recognize and respond to survivors and defendants of domestic violence. DANY commits to providing its own Domestic Violence Unit with the resources and support necessary to succeed in its mission. We hold the experience of experts in the field in the highest acclaim, from our own Special Victims Bureau supervisors to stakeholders far and wide. DANY's commitment to collaboration will continue as we plan regular multi-disciplinary borough-wide meetings to delve deeper into these complex issues. It is our hope that convenings, study, and reports will lead to action; starting with the implementation of each recommendation outlined herein, and ending with a long-term far-reaching reduction of domestic violence.

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APPENDIX 1: ACKNOWLEDGEMENTS – DOMESTIC VIOLENCE TASK FORCE PARTICIPANTS

We would like to thank all of our dedicated stakeholders who graciously committed their time to this process and who have tirelessly dedicated themselves to reducing the prevalence of domestic violence throughout our City. DANY is grateful to all the members of the working group who participated and volunteered their time to discuss gaps, to identify ways to work together, and to develop recommendations for action. Thank you all so very much.

A Call To Men

Administration for Children's Services

Arab American Family Services

Barrier Free Living

Bellevue Hospital Center – Victim Services Program

Beth Israel Hospital Medical Center – Rape Crisis & Domestic Violence Intervention

Center for Court Innovation

Children's Aid Society

CONNECT

Day One

Department of Education (NYC)

Dominican Women's Development Center

DOVE Program

Harlem Hospital Center – Center for Victim Support

Harlem Independent Living Center

Her Justice

Health and Hospital Corporation (NYC)

Human Resources Administration

Korean American Family Service Center

London, United Kingdom Police Department

Manhattan Legal Services

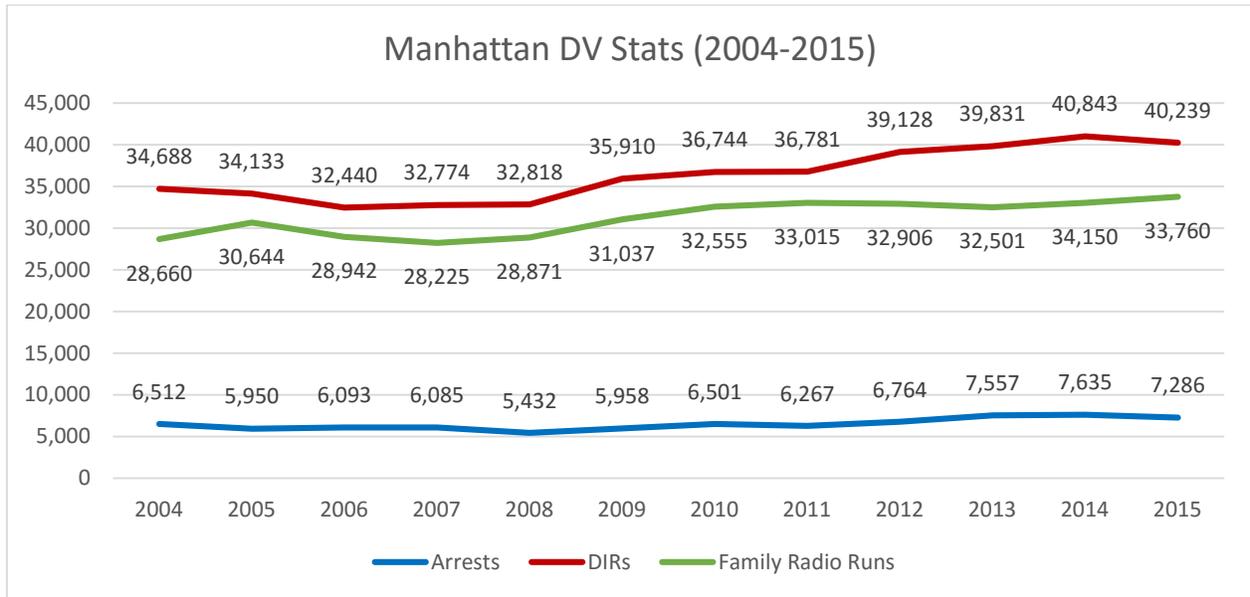
Mayor's Office of Criminal Justice

Mayor's Office to Combat Domestic Violence

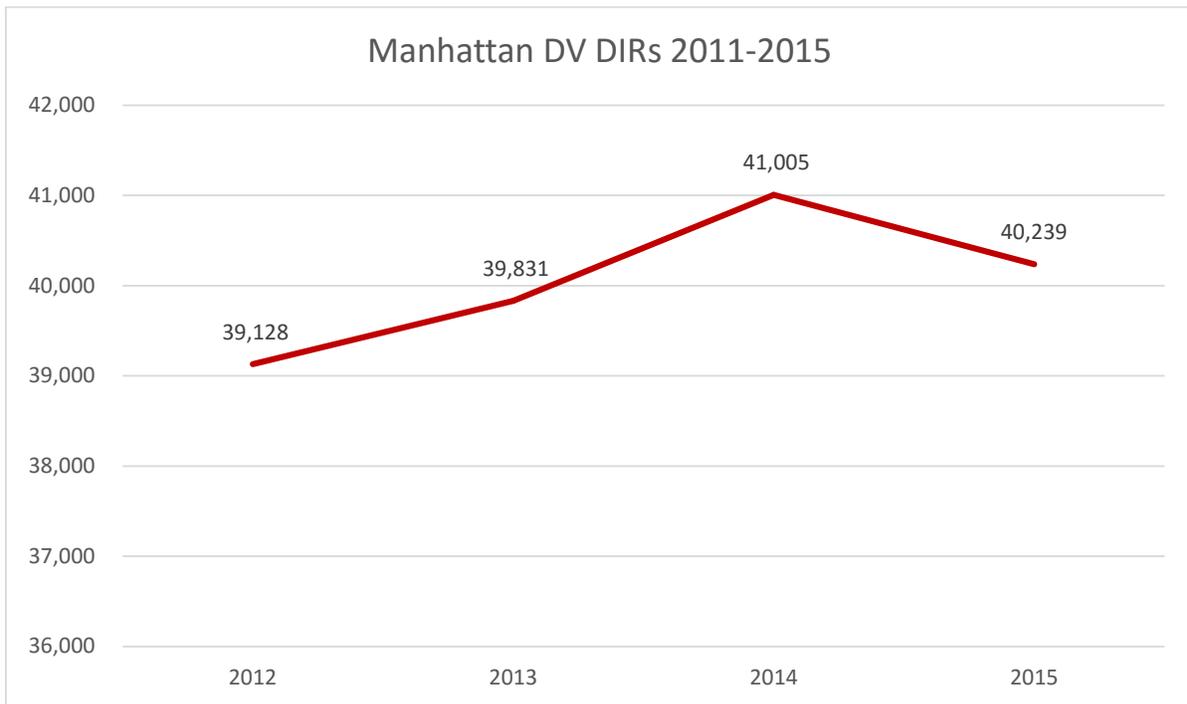
Mt. Sinai Hospital - SAVI Program
New York Asian Women's Center
New York City Anti-Violence Project
Northern Manhattan Improvement Corporation
NYC/NYS Department of Corrections and Community Supervision
New York City Housing Authority
New York Legal Assistance Group (NYLAG)
New York City Police Department
New York Presbyterian Hospital Cornell Medical Center - Victim Intervention Program
New York State Division of Parole
New York City Department of Probation
Safe Horizon
Sakhi for South Asian Women
Sanctuary for Families
Sauti Yetu
St. Luke's Roosevelt - Crime Victims Treatment Center
STEPS to End Family Violence (EGSCF)
Urban Justice
Victim Intervention Program at Cornell
Witness Aid Services Unit – New York County District Attorney's Office

APPENDIX 2: DOMESTIC VIOLENCE IN MANHATTAN²⁴⁵

1. Manhattan-wide

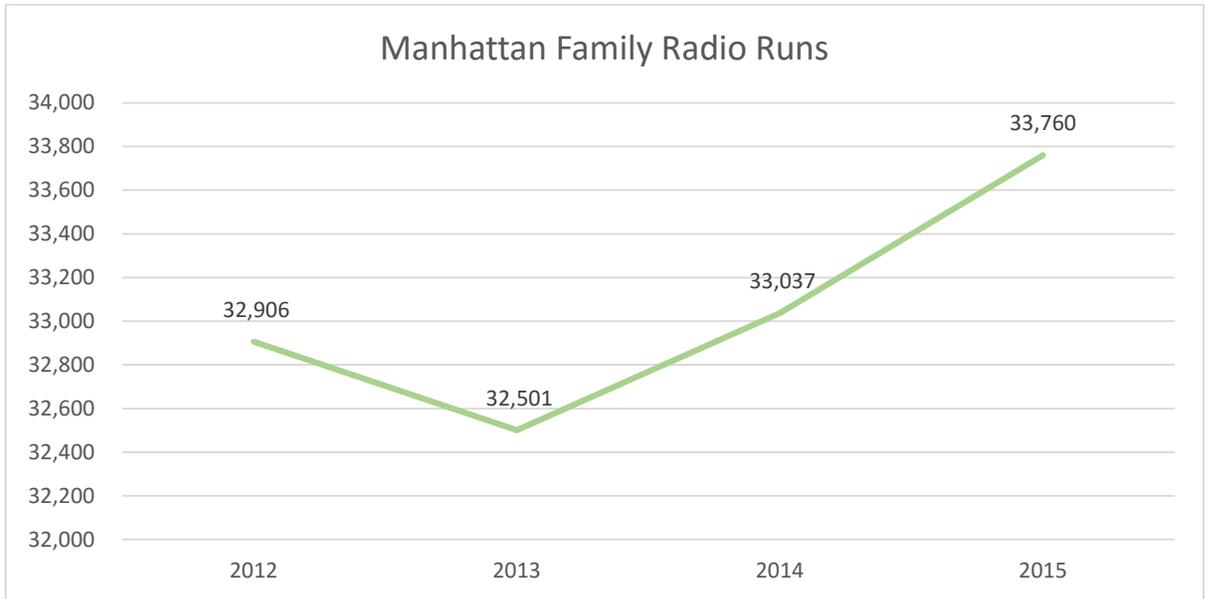


2. Manhattan-wide DIRs

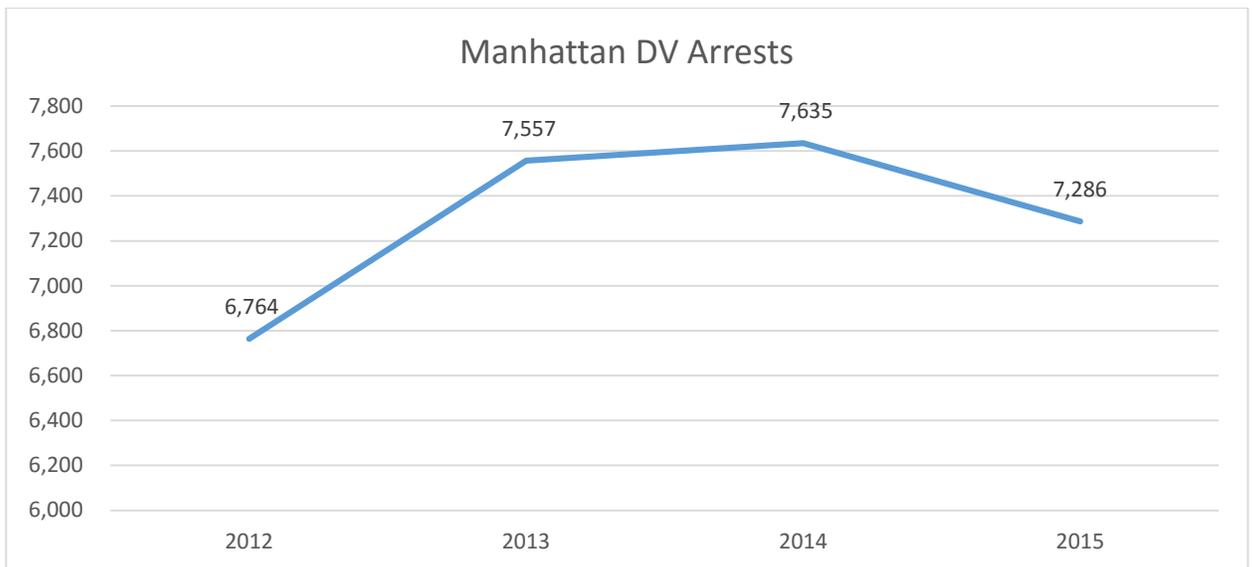


²⁴⁵ The New York City Police Department Manhattan domestic violence stats include all forms of domestic violence (not only intimate partner violence).

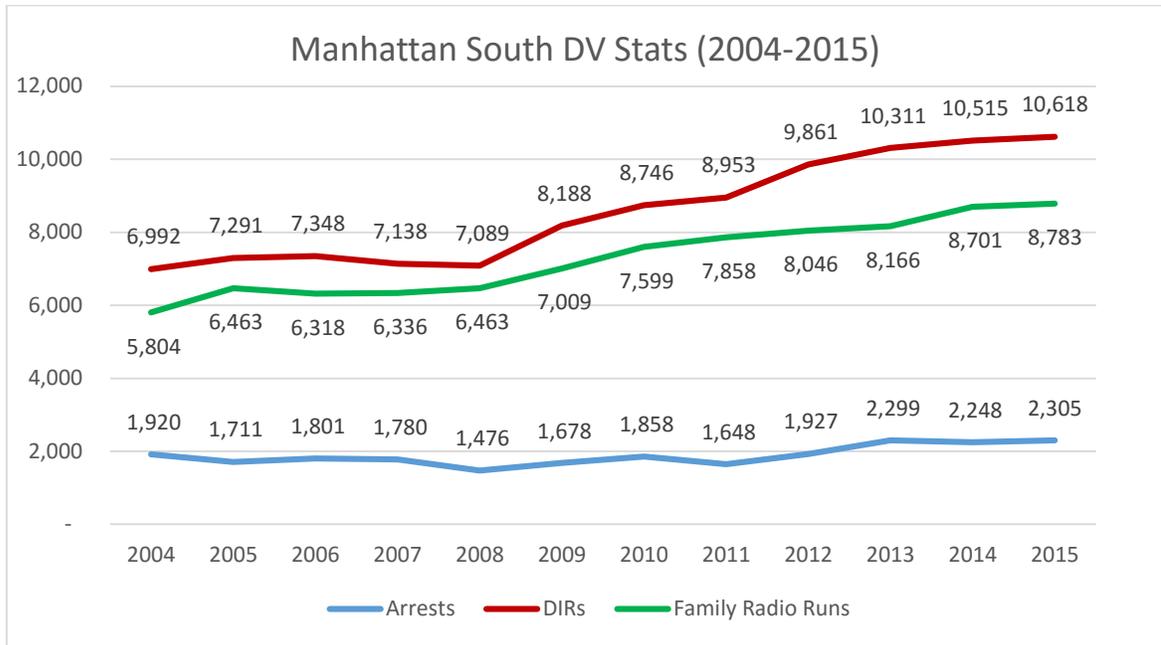
3. Manhattan-wide Family Radio Runs



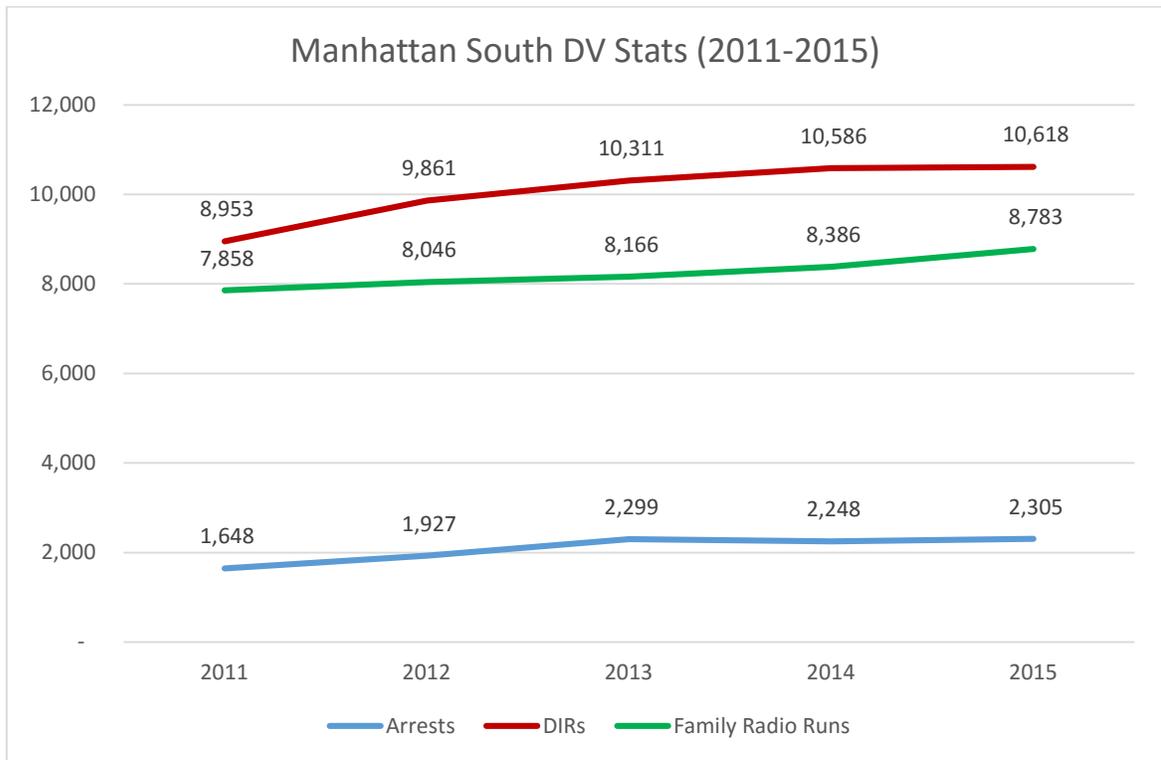
4. Manhattan-wide DV Arrests



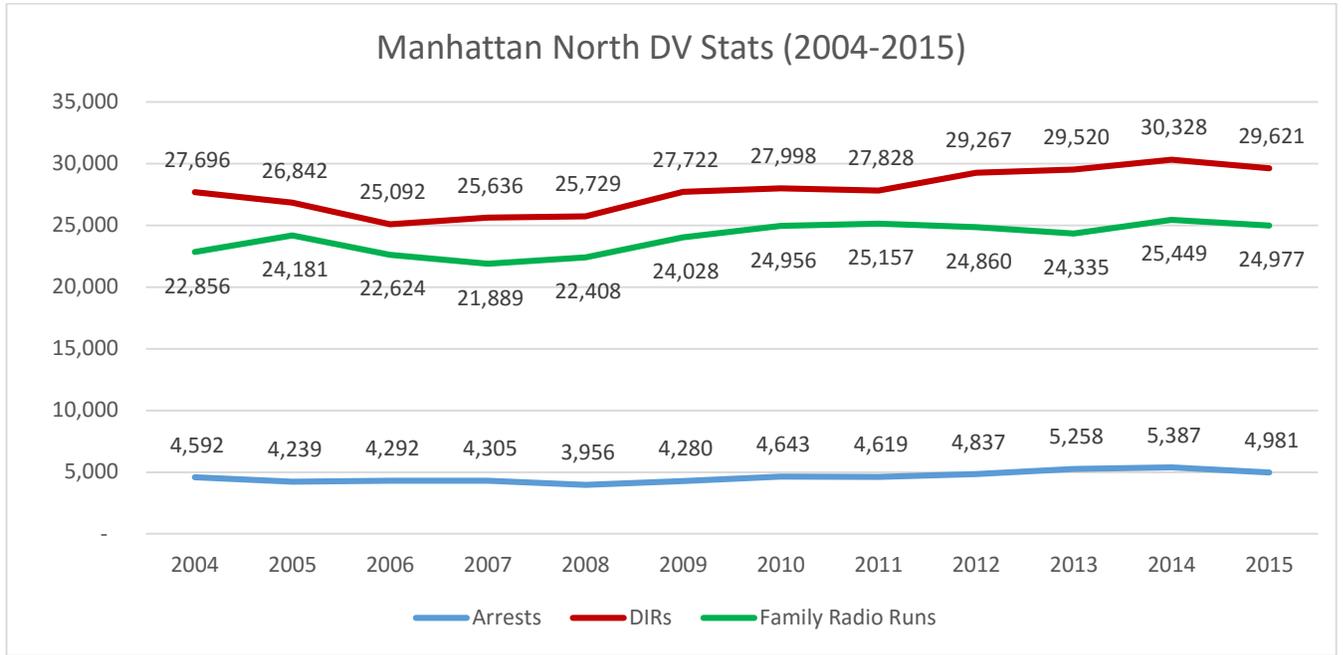
5. Manhattan South DV (all metrics)



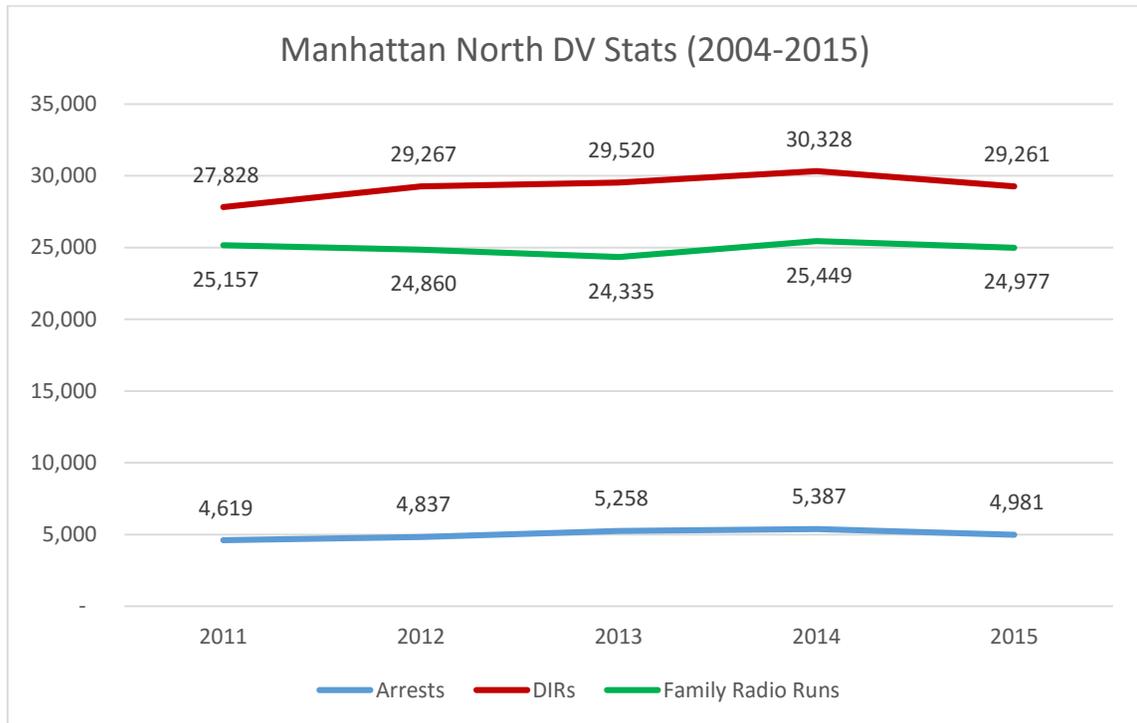
6. Manhattan South 2011 – 2015



7. Manhattan North 2004 – 2015

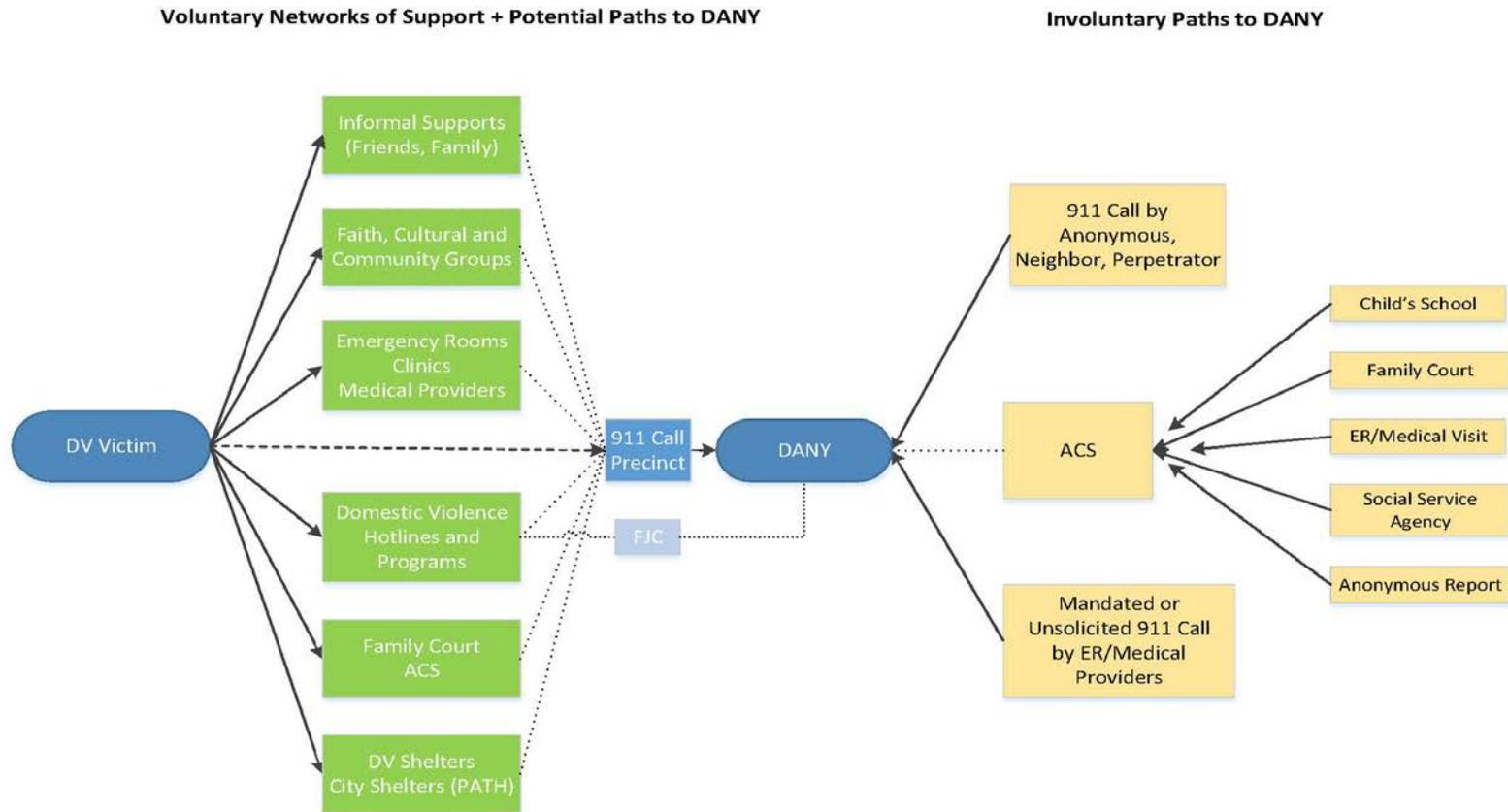


8. Manhattan North 2011 – 2015

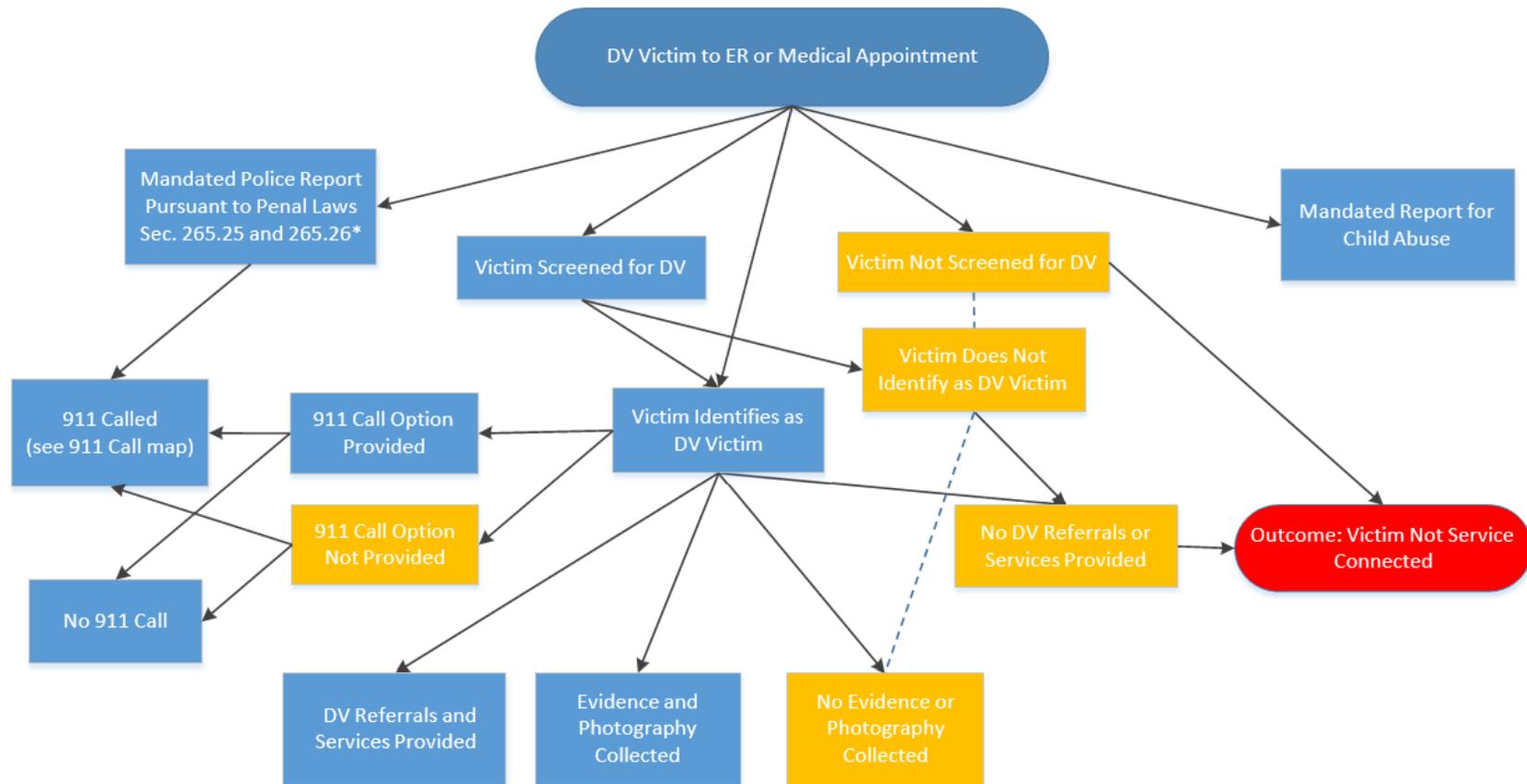


APPENDIX 3: PROCESS MAPS

VICTIM PATHS TO DANY



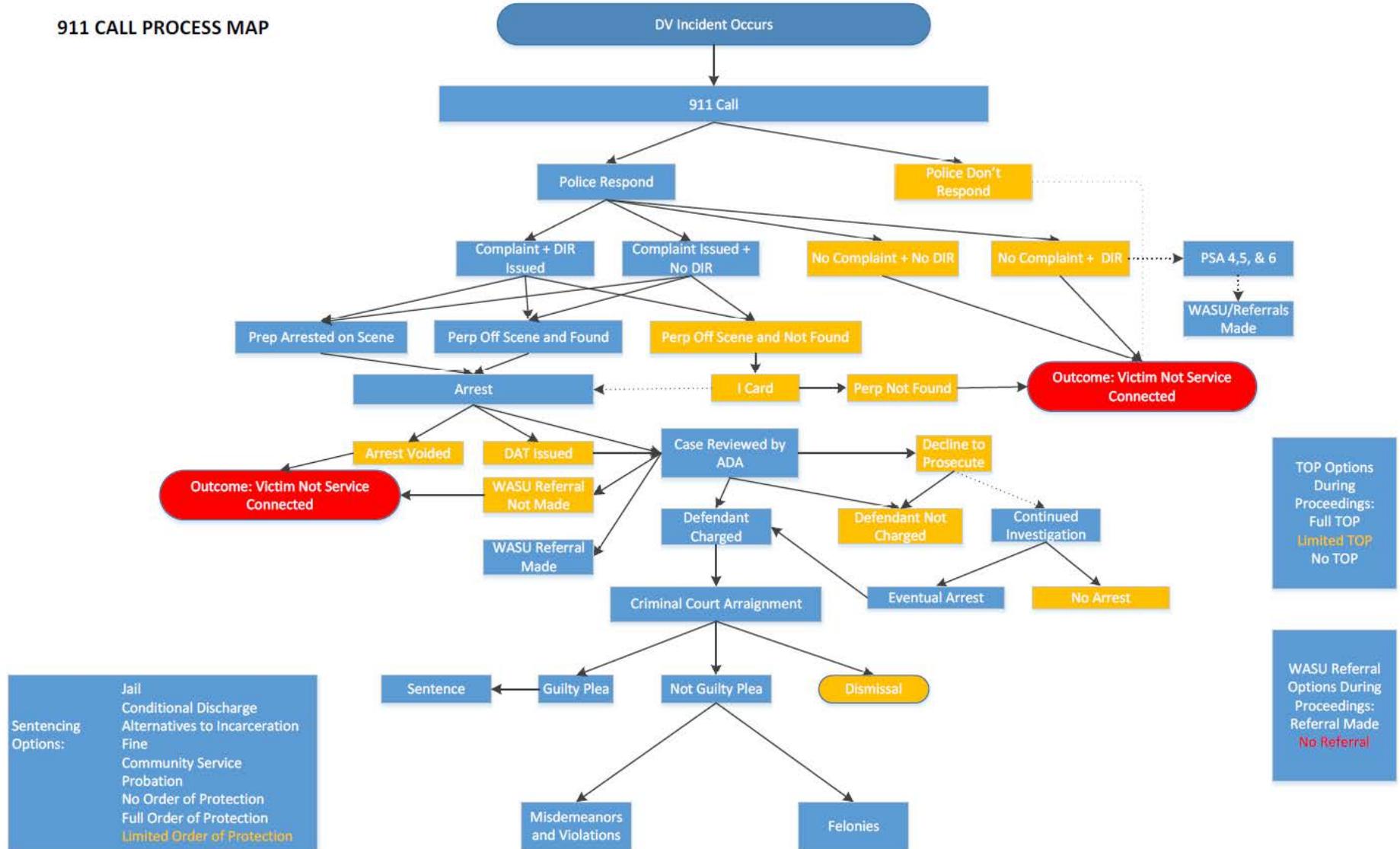
ER/MEDICAL PROCESS MAP



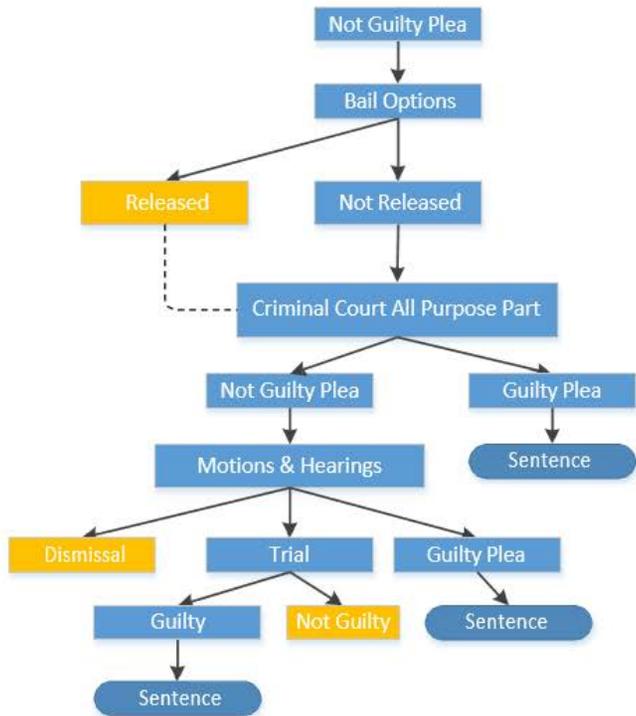
*NYSPL Sec. 265.25 Certain wounds to be reported: Every case of a bullet wound, gunshot wound, powder burn or any other injury arising from or caused by the discharge of a gun or firearm, and every case of a wound which is likely to or may result in death and is actually or apparently inflicted by a knife, icepick or other sharp or pointed instrument, shall be reported at once to the police authorities of the city, town or village where the person reporting is located by: (a) the physician attending or treating the case; or (b) the manager, superintendent or other person in charge, whenever such case is treated in a hospital, sanitarium or other institution. Failure to make such report is a class A misdemeanor. This subdivision shall not apply to such wounds, burns or injuries received by a member of the armed forces of the United States or the state of New York while engaged in the actual performance of duty.

*NYSPL Sec. 265.26 Burn injury and wounds to be reported: Every case of a burn injury or wound, where the victim sustained second or third degree burns to five percent or more of the body and/or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound which is likely to or may result in death, shall be reported at once to the office of fire prevention and control. The state fire administrator shall accept the report and notify the proper investigatory agency. A written report shall also be provided to the office of fire prevention and control within seventy-two hours. The report shall be made by (a) the physician attending or treating the case; or (b) the manager, superintendent or other person in charge, whenever such case is treated in a hospital, sanitarium, institution or other medical facility. The intentional failure to make such report is a class A misdemeanor.

911 CALL PROCESS MAP



Misdemeanors and Violations

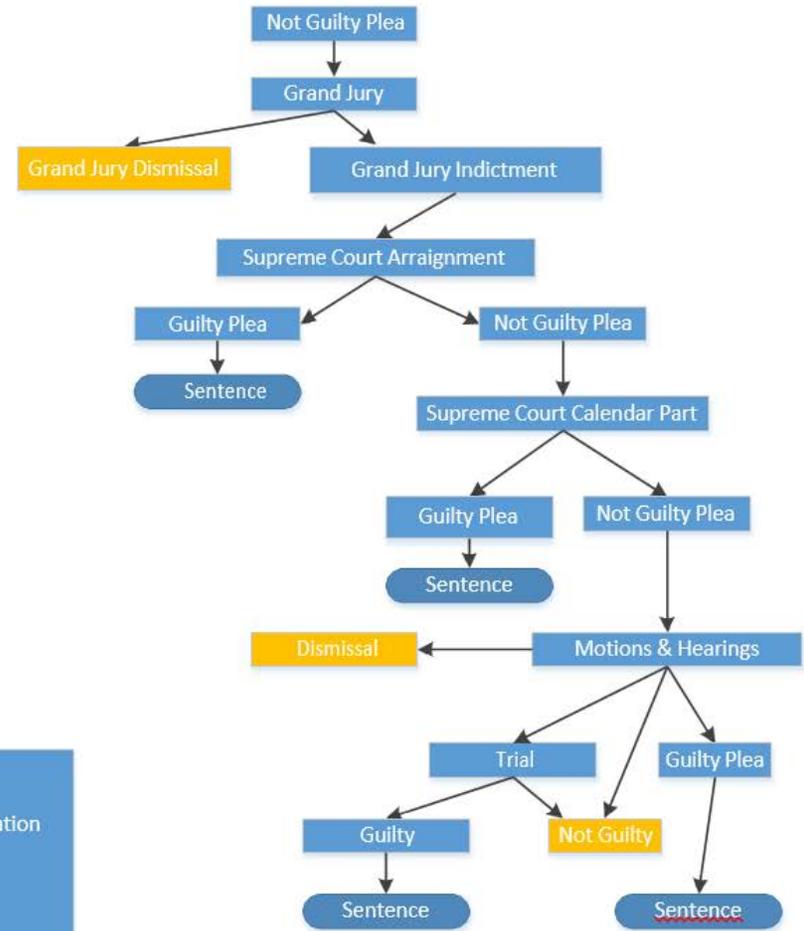


TOP Options
 During Proceedings:
 Full TOP
 Limited TOP
 No TOP

WASU Referral Options During Proceedings:
 Referral Made
 No Referral

Sentencing Options:
 Jail
 Conditional Discharge
 Alternatives to Incarceration
 Fine
 Community Service
 Probation
 No Order of Protection
 Full Order of Protection
 Limited Order of Protection

Felonies



APPENDIX 4: REVIEW OF BATTERER’S PROGRAMS

Research and Practice Review

CUNY ISLG conducted a literature review of peer reviewed journals to identify existing criminal justice programs and highlight best practices from around the country and internationally. Where appropriate, national best practices databases—“meta-analysis” sites—were used for this report, such as the Council for State Governments’ “What Works In Reentry Clearinghouse” and SAMHSA’s National Registry of Evidence Based Programs and Practices. CUNY ISLG also presented new ideas and strategies that do not yet have an evidence base, but are grounded in sound practices.

Evaluations were classified as **“evidenced based,” “promising,” or “sound.”**

Evidence based	Programs that have undergone rigorous evaluation and show significant, positive impact, though not every aspect of the program has necessarily been successful. ²⁴⁶
Promising	Programs and practices that have undergone limited evaluations (such as statistically controlled evaluations) suggesting effectiveness
Sound	Logical thinking, including legal and policy literature, suggests that this is a good practice, but has not yet been tested.

Batterer Intervention Programs

A review of the literature found two recent meta-analyses of the effectiveness of batterer intervention programs on domestic violence recidivism.²⁴⁷ One looking at United States and Canada programs identified 11 rigorous evaluations of male batterer intervention programs. The research found that those based on the Duluth model did not have an effect on domestic violence recidivism on average;²⁴⁸ however, five group-based treatments for male DV offenders, as a collective, reduced DV recidivism by 33 percent.²⁴⁹ Those programs, however, were very varied in their approaches, as described below.²⁵⁰

²⁴⁶ The term “evidence-based” is more accurate than “best practices”. Because a program or practice has been evaluated and proven successful, does not necessarily mean it is the “best” approach to a problem.

²⁴⁷ See Arias et al. (2013); and Miller et al. (2013).

²⁴⁸ The authors also conducted a country-wide survey in 2013, which found that 44 of 50 states had legal guidelines for DV offender treatment: in 28 states, standards specified that the Duluth treatment model must be part of the treatment curriculum, 12 other states had less specific curriculum or approach guidelines, and the remaining 4 states had standards regarding intake and assessment without specifying a treatment type. The authors note that there may be other reasons for the use of Duluth-based programs, unrelated to recidivism. See Miller et al. (2013). For example, outside of the batterers’ intervention curriculum component of the model, the model also includes coordinated community response, swift and consistent consequences for non-compliance with probation conditions, court orders, or program violations, etc. See Paymar & Barnes (n.d).

²⁴⁹ The authors note that, individually, all of these programs reduced DV recidivism but none of them had sample sizes large enough to reach statistical significance.

²⁵⁰ See Miller et al. (2013).

Therapy Type	Approach	Duluth Model	Evaluation	Notes
Cognitive Behavioral Therapy (CBT)	This group treatment emphasizes improving empathy, communication, and relationships with women.	Two of the five non-Duluth group-based treatments involved CBT. ²⁵¹	Rigorously Evaluated	
Relationship Enhancement	The focus of this treatment is on improving intimate relationships.	One of the five non-Duluth group-based treatments involved relationship enhancement. ²⁵²	Rigorously Evaluated	
Substance Abuse Treatment	This treatment was a substance abuse program designed specifically for DV offenders.	One of the five non-Duluth group-based treatments fell into this category. ²⁵³	Rigorously Evaluated	
Group Couples Counseling for DV offenders	This treatment includes group couples counseling for couples wishing to stay together.	One of the five non-Duluth group-based treatments involved couples counseling, and that study showed a non-significant reduction in recidivism. ²⁵⁴	Rigorously Evaluated	

²⁵¹ See Palmer, Brown & Maru (1992); and Dunford (2000).

²⁵² See Waldo (1998).

²⁵³ See Easton et al. (2007).

²⁵⁴ See Dunford (2000). For more descriptive information about which couples might be appropriate for this type of treatment see: Stith & McCollum (2011); Stith, McCollum, Amanor-Boadu & Smith (2012); and McCollum & Stith (2008).

Therapy Type	Approach	Duluth Model	Evaluation	Notes
Mental Health Programs	This approach focuses on the mind-body state of the offender before aggressiveness occurs, which may be caused by lack of awareness and inability to modulate psychological and physical arousal. ²⁵⁵ It asserts that this “explosive state” (the violent outburst) can be prevented through mind-body bridging, which includes components that are similar to existing techniques (e.g., cognitive restructuring, mindfulness training, trigger identification, grounding techniques used in Dialectical Behavioral Therapy, and others) but also involves other components (e.g., identification of triggers, awareness techniques, utilization of defusing practices, etc.).		This approach has been used in rural Utah.	Some research has found an association between the severity of domestic violence and certain offender mental health issues – Borderline Personality Disorder and Post-Traumatic Stress Disorder specifically. While treatments exist to treat these mental health issues generally (e.g., Dialectical Behavior Therapy for Borderline Personality Disorder), the specific effects on DV recidivism are not known. ²⁵⁶ Additionally, some literature indicates that program design might matter, i.e., supplemental mental health treatment for batterer program participants might not work as well as integrated treatment services or programs with simplified referral procedures, and that compliance with mental health treatment is an issue. ²⁵⁷ Finally, other literature has suggested the utility of identifying sub-types of batterers (e.g., low-level violence and psychopathology offender groups vs. moderate-level vs. high-level offender groups) and then tailoring/targeting/evaluating specific types of programs designed for them and their needs. ²⁵⁸

²⁵⁵ See Miller et al. (2013).

²⁵⁶ See Miller et al. (2013).

²⁵⁷ See Gondolf (2009).

Therapy Type	Approach	Duluth Model	Evaluation	Notes
Moral Reconciliation Therapy	The DV-specific MRT program involves 24 modules, with each module completed in a group session and homework that must be completed before each group session. Materials include the Bringing Peace to Relationships workbook for participants, which is used as part of the 24 module program.		This cognitive-behavioral treatment, which has been shown to reduce recidivism among the general offender population, now has a version specifically for DV offenders. ²⁵⁹	Other resources available to trained program facilitators include, for example, various MRT for DV participant exercises and articles, the MRT counselor's handbook, tools to help participants deal with stress appropriately, and others. ²⁶⁰
Interactive Journaling: Stopping Abuse For Everyone (SAFE)	The interactive journaling materials focus on self-recognition and skill-development exercises that explore how past influences, high-risk beliefs, and maladaptive thinking lead to abusive behavior, and participants use this information to develop positive and pro-social skills and to create a personalized plan for stopping abusive behaviors and creating healthier relationships. ²⁶¹			This cognitive-behavioral program, which grew out of the interactive journaling program "Getting It Right" for general offenders, has been developed specifically for DV offenders. ²⁶²
Faith-based Treatment				Although faith-based programs for DV offenders exist, to date there have been no evaluations of these programs on DV recidivism. ²⁶³

²⁵⁸ See Grana, Redondo, Munoz-Rivas & Cantos (2014).

²⁵⁹ See Miller et al. (2013).

²⁶⁰ See Correctional Counseling Inc: Moral Reconciliation Therapy: Domestic Violence website.

²⁶¹ See The Change Companies: Stopping Abuse For Everyone (SAFE) website.

²⁶² See Miller et al. (2013).

²⁶³ See Miller et al. (2013).

Therapy Type	Approach	Duluth Model	Evaluation	Notes
Achieving Change Through Value Based Behavior (ACTV)	ACTV is grounded in the principles and techniques of Acceptance and Commitment Therapy (ACT), which is based on mindfulness-based cognitive-behavioral therapy and has two major goals: to foster acceptance of unwanted mental experiences which are out of an individual's personal control and to facilitate commitment and action toward living a valued life (e.g., value of remaining non-violent and non-abusive).		Pilot program: Iowa is in the process of evaluating this program. ²⁶⁴	In 2011, the Iowa Public Safety Advisory Board invited the Pew-MacArthur Results First Initiative to partner with them in establishing a cost-benefit model to examine the state criminal justice system's policies and practices. ²⁶⁵ For domestic violence offender treatment programs, the finding was that the state lost an estimated \$3 for every dollar invested in the existing programs. In response, the Iowa Department of Corrections partnered with the University of Iowa to pilot alternative curricula for domestic abusers, known as Achieving Change Through Value-Based Behavior (ACTV).

²⁶⁴ See Iowa Department of Corrections (2013); Pew-MacArthur (2013); and Pew-MacArthur (2014).

²⁶⁵ The Pew-MacArthur Results First Initiative, a project of The Pew Charitable Trusts and the John D. and Catherine T. MacArthur Foundation, works with states to implement an innovative cost benefit analysis approach that helps them invest in policies/practices that are proven to work. For more information, see the Pew-MacArthur website.

Therapy Type	Approach	Duluth Model	Evaluation	Notes
Strong Fathers Program	<p>Developed at the Center for Child and Family Health, a national childhood trauma center, Strong Fathers is a psycho-educational and skills-building group for men referred by child welfare and with a history of domestic violence. Its aim is to help men relate in safe and caring ways to their children, partners and other family members and to enable men to work with their children's mothers to promote positive child development. The curriculum draws upon other models that have been developed to reduce child maltreatment and intimate partner violence, including Fathering After Violence, EVOLVE, and Caring Dads. It integrates parenting education with raising awareness of the impact of domestic violence on children and their mothers, and how men's childhood experiences affect how they relate to their children and partners.</p>		<p>Pilot program: This program is currently being used in North Carolina.²⁶⁶</p>	<p>Given the frequency and consequences of co-occurring domestic violence and child maltreatment, incorporating fatherhood into offender treatment programs has been considered a potentially useful programmatic strategy. Additionally, given the high attrition rates of traditional batterer intervention programs, some have suggested that engaging men who batter through their role as fathers might be more successful. The theory is that if men can acknowledge the impact that exposure to domestic violence has on their children, they may be more open to learning new ways of relating to the mothers of their children.²⁶⁷</p>

²⁶⁶ See Pennell, Sanders, Rikard, Shepherd & Staroneck (2013); and Pennell, Rikard & Sanders (2014).

²⁶⁷ See Edelson & Williams (Eds.) (2007); and Pennell et al. (2013).

<p>Correctional Service of Canada's (CSC's) Model</p>	<p>CSC mandates treatment for all incarcerated male offenders who have been assessed as being at continued risk for being abusive in intimate relationships.</p> <p>The content of this cognitive-behavioral program is based on the nested ecological model, which explains domestic violence as determined by multiple factors.</p> <p>Program modules include, for example: establishing offender motivation for change, training offenders on cognitive restructuring of attitudes and beliefs that condone abuse of women, training on key social and communication skills that underlie healthy relationships, developing relapse prevention plans, and (for the high intensity program) a longer parenting module, an autobiographical examination on what influenced the development of abusive patterns, etc.</p>		<p>Pilot Program: Preliminary research, though not randomized or controlled, suggests positive impacts.²⁶⁸</p>	<p>Those assessed as moderate risk receive a 25-session program, while those assessed as high-risk receive a 75-session program. The high-risk group also receive screening for personality disorders.</p> <p>Both programs incorporate a stages of change that recognizes that not all offenders will be equally ready to address their history of partner abuse. Introductory sessions allow offenders time to evaluate their goal for change and assess how they want to change.</p> <p>Trained facilitators deliver the curricula, and their adherence to the principles and the manual is monitored via videotape review of key sessions. The intervention is 2-3 hours long, delivered 3 to 5 times per week. Program groups consist of up to 12 offenders; facilitator teams are made up of a male and a female co-facilitator. At least 3 (moderate intensity program) to 10 (high intensity program) individual sessions are conducted with one of the facilitators assigned as a primary counselor.</p> <p>The literature on criminal justice broadly has indicated that effective programs/practices meet three principles: they have sufficient intensity of service based on risk level (Risk Principle); they target</p>
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Therapy Type	Approach	Duluth Model	Evaluation	Notes
				criminogenic needs—that is, dynamic factors empirically linked to criminal behavior (Need Principle); and they use effective methods and address responsivity issues (Responsivity Principle). While these principles have been applied to criminal behavior generally, there have been recent efforts to apply them to domestic violence specifically. ²⁶⁹

²⁶⁸ See Stewart, Gabora, Kropp & Lee (2014).

²⁶⁹ See Stewart et al. (2014).

<p>Colorado's Model</p>	<p>Assignment to one of three “levels” of differentiated treatment during their pre-sentence or post-sentence intake evaluation, with higher treatment levels warranting more treatment plan reviews (see below) and more intensive therapy contacts.</p> <p>Treatment plans based on each offender’s criminogenic needs, competencies, and identified risk factors, and which are formalized in a written offender contract. Treatment plan reviews are conducted every 2 to 3 months to discuss progress and whether there are any new risk factors or minimization/mitigation of original risk factors.</p> <p>A Multidisciplinary Treatment Team (MTT) that oversees decisions about each offender’s assigned level of risk and recommended treatment plan. The MTT includes a treatment provider, the supervising criminal justice agency (e.g., probation officer, the court), a treatment victim advocate, and other agency representatives as applicable (e.g., substance abuse or mental health providers, child welfare, etc.). The overall goal of the team is to reach consensus about initial treatment level placements, changes in levels, and decisions about discharge.²⁷⁰</p> <p>Competencies include: (A) commitment to the elimination of abusive behavior; (B) demonstration of change by working on the comprehensive Personal Change Plan; (C) completion of a Personal Change Plan; (D) development of empathy; (E) acceptance of full responsibility for the offense and abusive history; (F)</p>			<p>In 2010, Colorado—drawing on research recommending individualized treatment of high and low risk offenders—revised its standards for mandated court-ordered treatment for DV offenders. The original standards consisted of a “one-size-fits-all” treatment model where every offender was required to participate in a minimum of 36 weeks of treatment. The revised standards allow for more individualized treatment plans.²⁷¹</p> <p>The use of the Domestic Violence Risk and Needs Assessment (DVRNA), in order to distinguish between higher and lower risk offenders at the outset and which allows offenders to move between levels of treatment depending on their progress. The Colorado Domestic Violence Offender Management Board developed this assessment which reportedly includes 14 empirically based static and dynamic risk factors.</p> <p>Level A offenders have a DVRNA score of 0-1 out of 14 (indicating either no or one risk factor), and receive group clinical sessions once per week. Level B offenders have a DVRNA score of 2-4 and are required to participate in weekly group clinical sessions and one additional clinical intervention at least once per month. Level C offenders have a DVRNA score of 5 or more and have two clinical</p>
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Therapy Type	Approach	Duluth Model	Evaluation	Notes
	<p>identification and progressive reduction in the pattern of power and control behaviors/beliefs/attitudes of entitlement; (G) accountability; (H) acceptance that behavior can and should have consequences; (I) participation and cooperation in treatment; (J) ability to define types of domestic violence; (K) understanding, identification, and management of one’s personal pattern of violence; (L) understanding of intergenerational effects of violence; (M) understanding and use of appropriate communication skills; (N) understanding and use of “time outs”; (O) recognition of financial abuse and management of financial responsibility; (P) elimination of all forms of violence and abuse; (Q) prohibitions regarding firearms; (R) identification and challenge of cognitive distortions that play a role in offender violence. Other individual competencies based on risk factors and individual treatment needs (e.g., understanding and demonstration of responsible parenting) may also be included.</p>			<p>contacts each week: one focused on DV core competencies and another treatment session (e.g., cognitive skills, substance abuse, mental health, etc.).</p>

Research Limitations and Gaps

One recent study tracked scholarly publications on a variety of violence topics from 2008 to 2013, in order to identify trends. They found increases in technology-related topics, such as cyber-bullying and experience sampling (a technology-intensive methodology) as well as the co-occurrence of different forms of violence, but less attention on other topics such as batterer’s intervention programs. The authors point to the general need for more research in this area.²⁷² The quality of existing batterer

²⁷⁰ Offenders are discharged to “treatment completion” if the MTT consensus is that all required competencies and conditions of their treatment plan have been met; “unsuccessfully discharged” when they have not fulfilled one or more competencies/conditions; or “administratively discharged” (e.g., due to medical leave, military deployment, etc.).

²⁷¹ See Gover, Richards & Tomsich (2015).

²⁷² See Hamby, McDonald & Grych (2014).

intervention program delivery and research/evaluations have also been noted as an issue. For example, identified limitations include failure to identify or measure impact of treatment on intermediate treatment objectives, failure to identify a viable comparison group, failure to ensure program integrity, and high attrition rates.²⁷³ Additionally, the need for research on how to most accurately identify sub-groups of batterers, and studies that show what program features work and for whom, have also been noted.²⁷⁴

Trauma-Informed Programs

Trauma-informed programs for domestic violence offenders incorporate an understanding that many offenders were themselves the victims of trauma during childhood.²⁷⁵ Research suggests a link between childhood trauma and adversity and future domestic violence offenses.²⁷⁶

Research has yet to be conducted of the trauma-informed treatment approach for handling domestic violence offenders.

Features of Trauma-Informed Treatment: Trauma-informed treatment is typically conducted within a model of cognitive-behavioral therapy.²⁷⁷ A trauma-informed approach—usually tailored to survivors—requires adherence to six key principles:

- Safety within the physical setting of the program
- Trustworthiness and transparency between the organization, client, and family members
- Peer support
- Collaboration and mutuality
- Staff as facilitators, while clients are supported in cultivating self-advocacy
- Services are culturally responsive²⁷⁸

The review of research and practice found an example of a trauma-informed program that suggests a good practice, but has not yet been tested.

Domestic Violence Offender Treatment Program in Staten Island is holistic and addresses the causes of participant violence and anger and works to implement plans to prevent recidivism. The program helps participants recognize the role of trauma in their own lives and the way it may have contributed to their domestic violence offense (Richmond County DA, 2014).

Coordinated Community Responses

²⁷³ See Stewart et al. (2005); Gondolf (2010); and Paymar & Barnes (n.d).

²⁷⁴ See Gondolf (2010); Grana et al. (2014); and Friend, Cleary Bradley, Thatcher & Gottman (2011).

²⁷⁵ See Bloom & Farragher (2013); and Harris & Fallot (2001).

²⁷⁶ See Reavis et al. (2013).

²⁷⁷ See Levenson (2014).

²⁷⁸ See SAMHSA (2014).

In the review of research, evaluations support a coordinated community response (CCR) model, where the desired outcomes are increased arrests, successful prosecutions, and reduced recidivism. Newer iterations of CCR seek additional outcomes around prevention, such as improved knowledge, beliefs, and attitudes about intimate partner violence, increased knowledge and use of available services, or a reduction in risk of exposure to intimate partner violence.²⁷⁹

- In the **DuPage County Domestic Violence Protocol**, individuals who underwent both components of the intervention model (i.e. arrest and successful prosecution) had lower recidivism rates than individuals who received none or only one of the model's components.²⁸⁰
- In the **Domestic Abuse Intervention Project**, offenders who did not successfully complete court ordered domestic violence treatment were significantly more likely to recidivate compared to offenders who completed their court ordered treatment.²⁸¹
- **Men Stopping Violence Program** led to a significant increase in arrests of male offenders. More men were sentenced to probation and to attend a batterer's intervention program post-intervention²⁸²

²⁷⁹ See Post, Klevens, Maxwell, Shelley & Ingram (2010).

²⁸⁰ See Tolman & Weisz (1995).

²⁸¹ See Shepard et al. (2002).

²⁸² See Salazar, Emshoff, Baker & Crowley (2007).

APPENDIX 5: REVIEW OF PREVENTION AND EDUCATION CAMPAIGNS

Features of effective public education campaigns

- Grounded in evidence of the problem and the risk and protective factors
- Define clear and measurable objectives
- Identify indicators to measure the impact of the campaign, how they will be assessed, and ensure baseline measurement is taken
- Select the intended audience
- Use consumer research with the intended audience to develop messages and identify the best sources, channels and materials to reach them
- Build in an evaluation mechanism from the start
- Continuously use research to monitor impact and improve the campaign²⁸³

The programmatic details of these programs vary. For example, they may be offered in school or in community settings; they may be targeted to a broad group of youth (e.g., all youth in the 7th grade) vs. “at-risk” groups (e.g., youth from families involved with child protective services due to family violence); they can be stand-alone programs or programs integrated with lessons in other areas (e.g., part of a broader substance abuse or health program); they may be offered in gender-segregated groups or mixed-gender groups; they can have different types of facilitators or teachers (e.g., in terms of gender, number, training, etc.); they can have varying amounts of dosage/duration; they can be single-component or multi-component programs.

The literature²⁸⁴ has identified nine principles of effective prevention programs that fall into three broad categories:

- *Principles related to program characteristics:*
 - (1) Theory driven.
 - (2) Comprehensive, meaning that they address multiple risk factors and various involved systems.
 - (3) Incorporate varied teaching methods.
 - (4) Are of sufficient dosage.
 - (5) Enhance key relationships in participants’ lives (e.g., peers, parents, mentors).
- *Principles related to matching the program with the target population:*
 - (6) Are appropriately timed (in terms of age/grade level).
 - (7) Socioculturally relevant.
- *Principles related to implementation and evaluation:*
 - (8) Involve well-trained staff.
 - (9) Clear, well-defined goals and objectives which can be evaluated (e.g., change in attitudes, change in conflict management skills).

Programs for middle- and high-school youth

There are a few school-based dating violence prevention programs that have at least one rigorous randomized control trial (RCT) evaluation that suggests positive impacts. Some outstanding questions identified in the literature include: the degree to which any changes in attitudes and behavior persist over time; whether the results

²⁸³ See UNIFEM (2003).

²⁸⁴ See Nation et al. (2003).

of these interventions apply across a variety of backgrounds and social contexts; what the appropriate timing is for these interventions (e.g., age/grade level); and what the effect is of multi-component programs compared to single-component programs.²⁸⁵

Other programs do not have any readily-available documented evaluations. For example, in New York City, the Mayor’s Office to Combat Domestic Violence offers the New York City Healthy Relationship Training Academy (which provides interactive workshops on dating violence and healthy relationships in schools and other settings). Additionally, the NYC Human Resource Administration’s Teen Relationship Abuse Prevention Program (Teen RAPP) is based in schools throughout the city, using a variety of methods to prevent/address relationship abuse including prevention classes, intervention counseling, staff development, and training and community outreach.

Program	About	Evidence base
Safe Dates	<p>The program can stand alone or fit in a health education, family, or general life skills curriculum, or drug/alcohol prevention or general violence prevention programs.</p> <ul style="list-style-type: none"> • Includes family involvement (e.g., parent letters, brochures, resources) and school and community activities. • Curriculum: Nine 50-minute sessions (e.g., including topics such as defining caring relationships, defining dating abuse, how to help friends, etc.), a 45-minute play, and a poster contest 	<p>The Safe Dates curriculum adheres to all of the nine principles of effective prevention programs.²⁸⁶ Foshee et al.’s study (2005) found that, compared to the control group, Safe Dates participants reported less psychological, moderate physical, and sexual dating violence perpetration and less moderate physical dating violence victimization at all four follow-up periods. Program effects were not moderated by race or gender but some effects were moderated by prior involvement in dating violence. Program effects were mediated by changes in dating violence norms, gender-role norms, and awareness of community services.²⁸⁷</p>

²⁸⁵ See Peskin et al. (2014); Miller et al. (2015) p56.

²⁸⁶ See DeGrace & Clarke (2012).

²⁸⁷ See Foshee et al. (2005).

Program	About	Evidence base
4th “R” Curriculum	<p>The 4th “R” Curriculum is integrated into existing health and physical education curriculum requirements and covers personal safety and injury prevention; healthy growth and sexuality; and substance use/abuse.</p> <ul style="list-style-type: none"> ● Delivered by health/physical education teachers who receive six hours training workshop on teen dating violence and healthy relationships. ● Curriculum: 21 lessons (3 units of seven 75-minute classes, for a total of 28 hours), administered in gender-segregated classrooms ● School-level components include additional teacher training on dating violence and healthy relationships, information for parents, and student-led “safe school committees.” 	<p>Research found that participating students had less reported physical dating violence compared to control group students 2.5 years after program completion. The intervention effect was greater for boys than girls.²⁸⁸</p>
Shifting Boundaries	<p>The Shifting Boundaries curriculum focuses on consequences for dating violence/harassment perpetrators, state laws and penalties for perpetration, construction of gender roles, and healthy relationships. The program also incorporates a school/building-level intervention consisting of the development and use of temporary school-based restraining orders, higher levels of faculty/security in areas identified by student mapping of safe/unsafe “hot spots,” and the use of posters to increase awareness and reporting of dating violence/harassment.</p> <ul style="list-style-type: none"> ● Curriculum: a six session (45 minutes each) classroom intervention 	<p>Research shows that the “classroom plus building” intervention or just the “building” intervention alone were effective in reducing dating violence/harassment.²⁸⁹ For example, the classroom plus building intervention increased student knowledge about the laws and consequences of dating violence/harassment; the building intervention reduced victimization and perpetration of physical and sexual dating violence by about 50 percent up to six months after the intervention; the building only intervention was associated with more positive intentions to intervene as a bystander up to six months post intervention; etc.</p>

²⁸⁸ See Wolfe et al. (2009).

²⁸⁹ See Taylor, Stein, Woods & Mumford (2011).

Program	About	Evidence base
Youth Relationships Project	<p>The Youth Relationships Project uses a health promotion approach to preventing dating violence and includes education and awareness of abuse and power dynamics in close relationships, skill development, and social action. The program is held in youth centers and targets teens at risk of developing abusive relationships because of their history of maltreatment (CPS involvement).</p> <ul style="list-style-type: none"> • Curriculum: 18 2-hour sessions • Led by a male and female co-facilitator • Groups are co-educational. 	<p>Research has found the program effective at reducing incidents of physical and emotional abuse and symptoms of emotional distress over time.²⁹⁰</p>
<p>A number of other teen dating violence prevention programs may also be promising or sound practices, including</p> <ul style="list-style-type: none"> • Break the Cycle’s Ending Violence, • It’s Your Game....Keep it Real, • Expect Respect, • Start Strong, • Love U2 Relationship Smarts, • Dating Matters <p>Some of these used an RCT with some promising results, while others—such as Expect Respect, Start Strong, and Love U2 Relationship Smarts—have been tested using quasi-experimental methods. The CDC’s Dating Matters program is currently undergoing an evaluation.</p>		

Prevention in Medical Settings

Increasingly, hospitals and clinics are sites of primary, not just secondary and tertiary, intervention efforts. National campaigns—Health Cares About Domestic Violence Day,²⁹¹ for example—encourage medical and social work staff to educate children, teens, and parents who are at risk for domestic violence and child abuse about healthy relationship communication and behavior, broader conceptions of gender roles and norms, and sexuality.²⁹² See the earlier section on hospital-based interventions for more information.

Home visitation programs for women during pregnancy and the early childhood years

While not specifically designed as a prevention strategy for domestic violence, one well-tested home visitation program, the “Nurse-Family Partnership” (NFP), presents a potential opportunity for intervening with those who are at risk for domestic violence. The NFP is an intensive program for low-income, first-time mothers that begins

²⁹⁰ See Wolfe et al. (2003).

²⁹¹ An initiative sponsored by Futures Without Violence. See Futures Without Violence website for more details.

²⁹² See Family Violence Prevention Fund (2004); Hamberger & Phelan (2004); Cohen et al. (2006); Family Violence Prevention Fund (2008); American Bar Association (2006); and McNutt, Carlson, Gagen & Winterbauer (1999).

prenatally and follows women until the child is two years old. Some randomized controlled trials have found that the NFP improves maternal and child health, including reduction of injuries and child maltreatment. Some recent research has suggested home visitation programs show promising results in terms of decreasing domestic violence, and there have been recent efforts to develop and test a domestic violence intervention that could be used as a modification to NFP.²⁹³

Community-based approaches for adults and older (college-age and high school) youth

Approach	About	Evidence base
Bystander approach	Recognizes that domestic violence does not always occur in private. Each community member is recognized as a bystander to norms that either promote or reject violence in relationships. The key components of bystander interventions are awareness, sense of responsibility, perceptions of norms, weighing pros and cons in terms of getting involved, confidence in being able to take effective action, building skills to take effective action, and context in terms of available community resources. Many of these programs, in the spirit of whole community engagement, bring males into the picture, recognizing their important role in reducing and stopping intimate partner violence.	A recent meta-analysis found promising effects of bystander curricula for campus sexual assault prevention. ²⁹⁴
Bringing in the Bystander program	<p>Involves gradual introduction to the notion of bystander responsibility, uses local community examples of violence against women, uses active learning exercises to raise awareness of violence, includes discussion and practice of a range of potentially helpful bystander behaviors, their costs/benefits, and personal safety—all with the goal of stopping violence (particularly sexual violence) against women.</p> <ol style="list-style-type: none"> 5. Conducted in groups with a team of one male and one female peer facilitator. Short one-session and longer multi-version sessions have been developed. 6. Developed at the University of New Hampshire 	Research looking at this program in a college setting found improvements across measures of attitudes, knowledge and behavior. ²⁹⁵ The intervention included either a one-session intervention (90 minutes) or three 90 minute sessions – curriculum included sexual violence prevalence, causes, consequences and how they might be able to safely intervene before or after an incident. Groups were single sex. The study found that up to 2 months after participating in either format of the program showed improvements across measures of attitudes, knowledge and behavior and most of those persisted at the 4 month and 12 month follow up period for both men and women.

²⁹³ See Van Parys, Verhamme, Temmerman & Verstraelen (2014); Walker & Hayashi (2007); Jack et al. (2012); Mejdoubi et al. (2013); and Olds, Sadler & Kitzman (2007).

²⁹⁴ See Katz & Moore (2013).

²⁹⁵ See Banyard et al. (2007).

Approach	About	Evidence base
Coaching Boys into Men	<p>Provides strategies for talking to adolescent male athletes about violence against women. Coaches led brief (10-15 minute) weekly discussions with athletes about respect and DV prevention throughout sports season.</p> <ul style="list-style-type: none"> • A 60 minute training for school athletic coaches • Led by a trained violence prevention advocate to introduce the Coaches Kit, which provides strategies for talking to adolescent male athletes about violence against women. 	<p>The participants showed greater intentions to intervene and higher levels of positive bystander intervention behavior, but changes in gender equitable attitudes, recognition of abusive behaviors, and DV perpetration were not significant.²⁹⁶</p>
The Green Dot Strategy	<p>Introduces the concept of active bystander behaviors and provides participants with skills to be proactive bystanders to prevent violence. It also incorporates engagement with the peer social network to diffuse training through peer networks.</p> <ul style="list-style-type: none"> • Introduces the concept of building the audience's commitment to prevention. • Includes Bystander Efficacy Training that provides participants with skills to be proactive bystanders to prevent violence. 	
Mentors in Violence Prevention	<p>Engages male and female athletes and other peer leaders among college and high school students to encourage interactive discussions about positive bystander behaviors.</p> <ul style="list-style-type: none"> • Initial training consists of 12-14 hours over a 2 to 3-month period, followed by opportunities to participate in a Train the Trainer sessions (designed to increase participants' ability to facilitate similar conversations with younger audiences). • Facilitators use the training manual (MVP Playbook) and clips from the media to encourage interactive discussions about positive bystander behaviors. • Single-gender and mixed-gender groups can be used. 	

Community Models that Involve Men as Partners in Violence Prevention

There are a number of initiatives that focus on developing the capacity of men and boys to be allies with women and girls in working towards ending violence and promoting gender equality and healthy relationships. Work in this area occurs at both the community and macro level. It includes a focus on providing men and boys

²⁹⁶ See Miller et al. (2012).

with the skills and capacity to speak up against inequity, sexism and the mistreatment of women and girls, including stepping-up to prevent sexual harassment and assault and speaking with other men and boys about violence or demeaning behavior.²⁹⁷

Sound Practices

- **Walk a Mile in Her Shoes** is one method of engaging men to support women’s shelters and other services for abused women and children by raising funds through literally “walking a mile” in women’s footwear.²⁹⁸
- The **Men Stopping Violence Accountability Model** is grounded in the understanding that there are five levels of community influence: individual, primary community (e.g., family, friends, clubs, gangs), micro-community (e.g., faith communities, school systems, civic groups, social service agencies), macro-community (e.g., religion, mass media, governments, high courts), and global community (e.g., patriarchy, colonialism). This program involves men who have battered and those who haven’t, focusing on the causes of male violence against women, responsibility of men to be accountable for and hold others accountable for violence/abuse/sexism, and strategies any man can use for change.²⁹⁹
- The **Delaware Men's Education Network** involves men in promoting safe and healthy relationships, and in taking a closer look at the consequences of the behaviors and attitudes associated with what our culture accepts as normal manhood. They have developed a number of public service announcements to highlight the problem of domestic violence.

²⁹⁷ See Wells (2013).

²⁹⁸ See Wells (2013).

²⁹⁹ See Douglas, Bathrick & Perry (2008).

APPENDIX 6: RESTORATIVE JUSTICE

Restorative and Transformative Justice Programs

Restorative justice focuses on the primary stakeholders of a criminal act: the survivor, the survivor's family, the community, the offender, and the offender's family. Harm caused to the survivor is the central focus rather than the rules that were broken. The survivor and offender play more active roles than in the typical criminal justice framework where the state is the central actor. The offender is expected to accept responsibility for his/her actions by recognizing the harm caused to the survivor and community and work to repair that harm.³⁰⁰

Transformative justice takes the concept of restorative justice further, recognizing that survivors and perpetrators are products of their socioeconomic circumstances and society in general. The review of literature focuses on restorative justice because, despite theoretical literature on the benefits of transformative justice over restorative justice,³⁰¹ information is lacking on the practical application of the transformative justice framework.

Some restorative justice programs have specifically excluded domestic and sexual violence victims and perpetrators from participating due to safety concerns³⁰²; without adaptations to the exceptional dynamics and risks associated with domestic violence, it is widely understood that that premature implementation of programs may place victims in danger. However, modifications to traditional restorative justice practices (such as Victim-Offender Dialogues) are viable means of providing victims and perpetrators of domestic violence with the benefits—increased community support, empowerment, a sense of “procedural fairness”³⁰³—afforded to others involved in these practices.³⁰⁴

Features of restorative and transformative justice: Restorative and transformative justice is commonly viewed as a framework for handling crime that holds the offender accountable for healing the harm done to the survivor and community. Programs based on this framework typically contain the following features:

- Encounters between the survivor and offender (this component may be optional for domestic-violence cases);
- Written or oral apology by the offender;
- Agreements about restitution;
- Services by the offender to the survivor and community; and
- Services by the community to the survivor and offender.³⁰⁵

Given the frequency with which victims of domestic violence remain in contact or relationships with batterers, there is a need for criminal justice interventions and resources that improve the safety, wellbeing, education, parenting skills, financial stability, and medical and mental health of families.³⁰⁶ Interventions that meet the specific needs and risk factors (such as substance abuse, unemployment, and lack of proficiency in English) of individual batterers and victims would likely result in substantial positive change and increase in victim and community safety.

³⁰⁰ See Umbreit, Vos, Coates & Lightfoot (2005).

³⁰¹ See Morris (1995); and Coker (2002).

³⁰² See Ptacek & Frederick (2008); Frederick & Lizdas (2003); and Smith (2003).

³⁰³ See Smith (2003).

³⁰⁴ See Smith (2003); Ptacek & Frederick. (2008); Frederick & Lizdas (2003).

³⁰⁵ See Gaarder & Presser (2000).

³⁰⁶ See Davies (2009); Bobbit et al. (2006); Davies, J. (2002); Davies et al. (1998); and Mederos et al. (2005).

Restorative and Transformative Justice Models and Programs

Below is a table with fuller descriptions of the most common restorative justice models used with domestic violence.

NAME	PARTICIPANTS	INTERACTION	GOAL	WHEN
Victim Offender Mediation (VOM)	Victim Offender Trained professional to facilitate	Face-to-face conference	Develop a mutual agreement that repairs the harm done to the victim	<ul style="list-style-type: none"> • diversion from prosecution, • alternative to trying a case, • a condition of probation, • after incarceration
Family Group Conferences (FGC) (Kohn, 2010; Mills et al., 2006)	Victim Offender Trained professional to facilitate Family members/ friends of victim Family members/ friends of offender	Conference	Hold the offender accountable for harm done to the victim and work towards developing a plan to rectify the harm	
Sentencing circles (Burkemper & Balsam, 2007)	Victim Offender Trained professional to facilitate Family members/ friends of victim Family members/ friends of offender Additional interested parties in the community May include judge or prosecutor if discussing sentencing	Conference	All participants have the opportunity to speak about the incident, the impact of the offense, and ways to heal the victim and community. Circles address sentencing.	

Below is a table with fuller descriptions of the restorative justice programs examined by the CUNY Institute for State and Local Governance (ISLG).

Evidence-based	Circles of Peace (CP) <ul style="list-style-type: none"> • Established in Arizona in 2004. • Offender attends weekly “circle sessions” guided by a trained facilitator for 26-52 weeks. • Sessions include offender and survivors, but survivors are not required to participate. • Goal: to develop a plan for change for the offender that focuses on restorative justice for the survivor, family, and community. • Randomized control trial to evaluate CP from 2005-2007 suggests that compared to BIP, CP may lead to lower rates of recidivism. However, the impact was not robust, as significant differences were only present at 6- and 12-month follow up periods (Mills et al., 2012).
Promising practices	Mediation and Restorative Justice Center of Edmonton <ul style="list-style-type: none"> • Established in 1998 in Edmonton, Canada. • Uses multiple “restorative dialogue sessions” with a focus on harm caused by the offender, participant safety, offender accountability, and restoration. • Sessions include survivor and offender. Participation on the part of the survivor is voluntary, and can be terminated at any time. An offender must be willing to take responsibility for his actions and display remorse. • Due to the requirements for participation, extensive screening is required prior to selecting cases (Edwards & Haslett, 2003).

- While impacts of the program are purely anecdotal, many in the field point to this program as a useful model of restorative justice in action (Cheon & Regehr, 2006; Kohn, 2010; Stubbs, 2004).

Navajo Peacemaking Circles

- Developed in 1982 in response to dissatisfaction with traditional legal approaches for dealing with conflict resolution among members of the Navajo Nation.
- The circles are voluntary.
- The conflict resolution frequently involves the larger community.
- Circles focus on family disputes that frequently involve issues of domestic violence. The focus of the program is on relational healing between disputants, rather than survivor reconciliation.
- Gross (1999) compared outcomes for petitioners and respondents that used the peacemaking process to those who relied on the typical Family Court intervention. The Peacemaking Circles are voluntary, so the treatment and comparison groups were not sufficiently equivalent to reach conclusive findings about program impacts. However, research suggests that individuals who participated in the peacemaking circles were more likely to report the process was fair and have a lower rate of problem recurrence than cases dealt with in Family Court (Gross, 1999).

Newfoundland & Labrador Family Group Decision Making Project (FGDM) Project

- Developed in mid-1990.
- Families are typically referred by child welfare professionals for issues of child abuse/neglect.
- The program consists of FGC conferences, with most families participating in one 5.5 hour session. During the conference, families developed a plan which has to be approved by the referring agency. Plans detail action steps for family members and professionals, and typically include counseling, substance abuse treatment, in home supports, and child care.
- Goal: to reduce family violence against children and adult family members. Cross-generational violence and sexual abuse are common among the participating families.
- A year-long evaluation of the program analyzed outcomes in three culturally diverse regions that utilize the program: Nain (an Inuit community); Port au Port Peninsula (a rural community); and St. John's (the capital). The evaluation was limited by a small sample size (32 families). However, findings suggest that the conferences resulted in positive changes within the families, with most participants indicating the conferences were beneficial. Additionally, incidents of violence within the families decreased after the conferences, and rates of violence were lower than for a comparison group of families that did not participate in the conferences (Pennell & Buford, 2000).

Pono Kalike Program

- Began in 2003 as a collaboration between a non-profit (Hawaii Friends of Civic and Law Related Education) and the District Court of the First Circuit in Honolulu.
- Focuses on family violence and intimate violence cases.
- Three models are offered:
 1. A restorative conference with the defendant, survivor, and supporters of both parties, resulting in a Restorative Conference Agreement.
 2. A restorative dialogue between the survivor and defendant, but no supporters, resulting in a Restorative Dialogue Agreement.
 3. A restorative session (for parties unwilling to meet), in which the survivor and defendant meet with facilitators and supporters separately to develop a Restorative Plan (Walker & Hayashi, 2007).
- Walker & Hayashi (2009) evaluated the program, using a comparison group of individuals who were eligible for Pono Kalike, but were not referred to the program. Findings are limited because of the small sample size (only six of the cases involved domestic violence) and because the treatment and comparison group were not equivalent. However, the study suggests that participants were satisfied with the process and provides evidence that the program may reduce recidivism among participating offenders (Walker & Hayashi, 2009).

RESTORE

	<ul style="list-style-type: none">• Pilot program in Arizona.• Addresses acquaintance rape and non-penetration sex offenses.• Voluntary for the survivor and offender.• Program consists of an individualized treatment plan for the offender with 12 months of monitoring. After preparation, the survivor and a support network meet face-to-face with the offender to discuss the impact of the offense.• The participants develop an agreement detailing steps the offender will take to make things right for the survivor and community. Successful completion of the agreement and a final statement of accountability results in the dismissal of charges.• A small-scale study of 22 cases that participated in RESTORE from 2003-2007, found that the majority of survivors were satisfied with the process and outcomes of the program (Hopkins & Koss, 2005). Based on the success of RESTORE, a similar project was started in New Zealand, and has demonstrated similar results (Julich, 2010).
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APPENDIX 7: RISK ASSESSMENT INSTRUMENTS

Domestic Violence Risk Assessments

Domestic violence risk assessments have many applications for aiding the prevention of domestic violence recidivism. Some, but not all, risk assessment tools are designed so that they can be administered by law enforcement. Knowledge of risk can inform decisions about protection of survivors, treatment of offenders, charges, pretrial release, sentencing, probation conditions, custody, and visitation, among others.

Validated domestic violence risk assessment tools

Below is a table with fuller descriptions of validated risk assessment tools used with domestic violence.

Validated Risk Assessment Tools				
NAME	TOOL DESCRIPTION	FOR USE BY	FOR USE WITH	RESEARCH
Danger Assessment (DA)	<ul style="list-style-type: none"> • A timeline of the frequency of abuse • 20 questions to assess the risk of intimate partner homicide • Commonly used to predict general intimate partner assault recidivism 	Completed through an interview with the survivor	<ul style="list-style-type: none"> • Female survivors • Same-sex female couples (Glass, et al., 2008) • Immigrant women (Messing et al., 2014) • Women in Taiwan (Wang, 2014) 	<ul style="list-style-type: none"> • Reliably predicts the risk of extreme danger for survivors of domestic violence (Campbell et al., 2005; Campbell et al., 2009; Hanson et al., 2007; Messing & Thaller, 2013) • A study that combined women's perception with validated risk assessment tools found women's perception combined with the DA was the strongest predictor of re-assault (Heckert & Gandolf, 2004)
Domestic Violence Screening Instrument (DVSI)	<ul style="list-style-type: none"> • 12 items used to predict the risk of intimate partner re-assault • Evaluator completes the DVSI using information in state databases, and prior court and probation records 	Intended as an initial screening to be followed by the Spousal Assault Risk Assessment (SARA) instrument (see below)	<ul style="list-style-type: none"> • Female survivors 	On its own, the DVSI has moderate predictive ability (Williams & Houghton, 2004; Messing & Thaller, 2013)
Kingston Screening Instrument for	<ul style="list-style-type: none"> • Based on 10 risk factors used to 		<ul style="list-style-type: none"> • Female survivors 	Validated to predict the likelihood of new domestic violence

Validated Risk Assessment Tools

NAME	TOOL DESCRIPTION	FOR USE BY	FOR USE WITH	RESEARCH
Domestic Violence (K-SID)	predict intimate partner re-assault <ul style="list-style-type: none"> • Uses survivor and perpetrator interviews and police reports to complete the instrument 			arrests (Lyon, 1998), however K-SID ranks low when compared to other assessment tools (Campbell et al., 2005)
Ontario Domestic Assault Risk Assessment (ODARA)/Domestic Violence Risk Appraisal Guide (DVRAG)	<ul style="list-style-type: none"> • 13-items to predict the risk of wife assault recidivism • DVRAG expands on ODARA by incorporating the Hare Psychopathy Checklist (PCL-R), which requires information that is not readily available in the field. 	Front line police officers using information available in the field (Hilton et al., 2008)	<ul style="list-style-type: none"> • Female survivors 	ODARA is validated to be used independently (Hilton et al., 2004; Messing & Thaller, 2013; Hanson, et al., 2007), however research suggests DVRAG is a stronger predictor of re-assault (Hilton et al., 2008)
Spousal Assault Risk Assessment (SARA)	<ul style="list-style-type: none"> • Based on 20 standard risk factors used to predict spousal assault recidivism • Combines a psychological assessment of the perpetrator and clinical judgment • Evaluator uses the following sources to complete the assessment: survivor and perpetrator interviews, criminal justice records, and standardized instruments (Kropp & Hart, 2000) 	Clinical evaluator	<ul style="list-style-type: none"> • Female survivors 	Research has shown SARA to consistently predict spousal re-assault (Messing & Thaller, 2013; Hanson et al., 2007; Williams & Houghton, 2004)

Risk Assessment: Evidence-based applications

Although these risk assessment tools were built using empirical evidence and were validated as being effective at predicting domestic violence recidivism, there are few independent rigorous evaluations that examine the practical application of the tools in the field.

Approach	Details	Research
Lethality Assessment Program (LAP)	A collaboration between law enforcement and social service providers. Police responding to the scene of a domestic violence incident use the lethality assessment (11 questions derived from the Danger Assessment) to screen for increased risk of homicide.	A recent evaluation found that the majority of women screened as high risk were willing to speak with an advocate and that women who participated in LAP reported decreased experiences of intimate partner violence. ³⁰⁷

Risk Assessment: Promising practices

Despite the dearth of evidence of the effectiveness of risk assessment tools for preventing domestic violence recidivism, these tools are used widely by law enforcement agencies, survivors’ advocates, and social service providers. Below are several promising approaches of effective use of these instruments.

Approach	Details	Research	
Coordinated Community Response	The Enhanced Domestic Abuse Intervention Project (EDAIP) focuses on addressing domestic violence through coordinating the efforts of women's advocates, prosecutors, probation officers, judges and rehabilitation services. It incorporates a risk assessment tool—a probation-sentencing matrix and computerized monitoring system—based on the validated Danger Assessment.	An evaluation of the coordinated community response model that incorporates risk assessment to reduce recidivism found that the tool is effective at predicting recidivism, although police completed the assessment in only 37 percent of cases in which it was warranted. ³⁰⁸	
Law Enforcement Agencies in Maine adopted the ODARA	The ODARA risk assessment tool is used by law enforcement agencies to determine intervention strategies. It will also be used to assess which offenders will be included in two new pilot projects with electronic monitoring and a high risk response team. ³⁰⁹		

³⁰⁷ See Messing et al. (2014).

³⁰⁸ See Shepard et al. (2002).

³⁰⁹ See Maine Coalition to End Domestic Violence: Risk Assessment (ODARA) website.

Approach	Details	Research	
Greater Newburyport Domestic Violence High Risk Team (DVHRT)	DVHRT seeks to prevent domestic violence recidivism by identifying high-risk offenders through the use of the Danger Assessment risk assessments.	During the first eight years of the project, 129 cases were identified as high risk, and during that time there were no domestic violence homicides in the communities participating in the project (compared to eight domestic violence homicides in the ten years preceding implementation of the project).	

APPENDIX 8: EXCERPT FROM NEW YORK STATE DEPARTMENT OF HEALTH REGULATORY CODES

CHAPTER V MEDICAL FACILITIES/SUBCHAPTER C STATE HOSPITAL CODE ARTICLE 6 TREATMENT CENTER AND DIAGNOSTIC CENTER OPERATION

Section 751.5 Operating policies and procedures:

The operator shall ensure:

a. The development and implementation of policies and procedures written in accordance with prevailing standards of professional practice which include but are not limited to: 8. the identification, assessment, reporting and referral of cases of suspected child abuse or maltreatment and identification and treatment of domestic violence; 9. the identification of patient's medically related, personal and social problems which may interfere with the patient's treatment, recovery or rehabilitation; 10. the establishment and implementation, in conjunction with a qualified social worker, of a plan, consistent with available community and center resources, to provide or arrange for the provision of social work, psychological and health educational services that may be necessary to meet the treatment goals of its patients;

Section 751.6 Personnel

The operator shall ensure:

k. that each employee, as applicable, receives on-the-job training necessary to perform his/her duties;
l. that all staff receive education in the identification, assessment, reporting and referral of cases of suspected child abuse, maltreatment, and identification and treatment of domestic violence;

CHAPTER V MEDICAL FACILITIES SUBCHAPTER A – MEDICAL FACILITIES MINIMUM STANDARDS / ARTICLE 2 HOSPITALS/ PART 405 HOSPITALS MINIMUM STANDARDS (STATUTORY AUTHORITY: PUBLIC HEALTH LAW 2803, 2805 – k, 2805 – l, 2805-m and 4351)

e. Domestic Violence. The hospital shall provide for the identification, assessment, treatment and appropriate referral of cases of suspected or confirmed domestic violence. The hospital shall establish and implement written policies and procedures consistent with the requirements of this section, which shall apply to all service units of the hospital.

Emergency Services

3. Domestic Violence. The emergency services shall develop and implement policies and procedures that provide for the management of cases of suspected or confirmed domestic-violence victims in accordance with the requirements of subdivision (e) of Section 405.9 of this Part.

See also:

NY CLS Pub Health § 2803-p requires every hospital with maternity and newborn services to provide information concerning family violence to parents of newborn infants at any time prior to the discharge of the mother which must include available services.

NY CLS Pub Health § 2137 requires development of protocol for the identification and screening of victims of domestic violence who may either be an individual diagnosed with HIV/AIDS or a partner who requires notification.

NY CLS Exec § 575 creates the New York State Office for the Prevention of Domestic Violence which develops and delivers training on domestic violence to professionals in the health and mental health fields.