

Adapting Deterrence Strategies for Domestic Violence Offenders

For decades, the idea that “nothing works” dominated the conversation around rehabilitating criminal offenders, including those in domestic violence cases. However, recent research reveals that strategies to deter recidivism may exist. These evidence-based interventions are now being applied in various jurisdictions to domestic violence offenders with a degree of success. This fact sheet describes the concept of deterrence and how it can be implemented in domestic violence cases to enhance victim safety and hold offenders accountable.

What is Offender Deterrence?

Effective offender deterrence requires that courts engage in rigorous monitoring and impose certain and consistent consequences in response to offenders who do not comply with court orders. Deterrence techniques have been shown to be most effective when they involve certainty, celerity, and severity.

Research demonstrates that offenders do not always understand the consequences of noncompliance, even if they receive an explanation or those consequences seem apparent to criminal justice officials. Engaging in frequent reminders—conveyed in clear, non-technical language—on the positive consequences of compliance and the negative consequences of noncompliance increases program completion rates and reduces recidivism.ⁱ

While sanctions are important, research also indicates that positive incentives (verbal praise or tangible incentives like cash value certificates) can play an important role in changing behavior, especially if the incentives are frequently and predictably administered according to a schedule.ⁱⁱ

“When the offender is clear on cause and effect, the keys to the jail are in his hands. Early certainty and severity of sanctions identify very quickly which offenders will make it out of custody...and which won't.”

Janelle Kendall, Stearns County Prosecutor

Elements of Effective Deterrence

Certainty: Every violation must elicit a response by the justice system.

Certainty is the most critical of the three principles of deterrence. Research on domestic violence courts showed that while courts had compliance calendars, many courts did not sanction non-compliant defendants consistently. Defendants should be certain that their refusal to comply with court orders will result in a meaningful consequence. Judges and stakeholders, i.e. community agency members with an interest and/ or connection to the justice system, must work together to explain to the defendant the expectations of compliance and the consequences of noncompliance. Courts are more likely to deter recidivism by imposing

minor penalties on offenders for each incident of noncompliance rather than permitting repeated noncompliance and then suddenly imposing a severe sanction.

Certainty in Practice: In Moorhead, Minnesota, the Domestic Violence Court worked with stakeholders to create a sanctioning matrix. This matrix is given to defendants as part of their Domestic Violence Court Participant Handbook.

Celerity: Violations must be met with a swift imposition of sanctions.

Not only must each violation of a court order result in a consequence for the offender, but that consequence must be prompt. An extended delay between noncompliance and punishment will only contribute to the offender's doubt as to whether sanctions will be imposed. This in turn undermines the court's ability to deter recidivism.

Celerity in Practice: In Bemidji, Minnesota, the court worked with stakeholders to create the Domestic Violence Court handbook in which defendants are required to write their conditions of probation. If the defendant forgets to bring the Handbook to a compliance hearing, the judge requires the defendant to sit in court and re-write the conditions of probation.

Severity: There must be a proportional response to violations that is strong enough to deter behavior and leaves room for stronger sanctions in the future, if necessary.

When offenders refuse to comply, courts should implement a system of gradually increasing sanctions based on the frequency and severity of the offender's violation. By responding with the appropriate severity and repeatedly reminding the offender of the consequences of further violations, courts can increase the chances that offenders understand the consequences of noncompliance.

Judicial Monitoring

Typically, compliance monitoring involves bringing defendants back to court post-plea/post-disposition to ensure adherence to court ordered conditions, such as orders of protection or batterer program mandates. Judicial monitoring provides consistent opportunities to establish the credibility of sanctions for noncompliance. Holding regular compliance hearings, scheduled to respond to risk of noncompliance, sends the message to defendants that non-compliance with court orders and mandated programs will be met with swift sanctions. Courts are encouraged to discuss compliance monitoring with stakeholders, create interagency compliance monitoring protocols and procedures, and incorporate these into their domestic violence court planning documents and operations.ⁱⁱⁱ

Judicial Monitoring in Practice: In Dallas, Texas, the domestic violence court judge meets with his designated probation officer and his court coordinator prior to court to ensure that all relevant information regarding compliance is shared. On compliance dates, the probation officer is in court to provide a written report to the judge and can call court-mandated programs if there are any questions regarding compliance.

The Winnebago County Domestic Violence Coordinated Court holds a special docket twice per month to monitor respondents. At each compliance docket, the judge monitors each defendant for compliance with orders to attend partner abuse intervention programming and other terms of the order of protection.

Deterrence Strategies in Domestic Violence Cases

Effective deterrence holds particular significance for domestic violence courts and stakeholders as it promotes the dual goals of enhancing victim safety while also holding offenders accountable for their behavior, which in turn reduces the overall risk of further abuse.

Domestic violence practitioners have defined accountability to have both personal and institutional aspects, in which recidivism plays one part of the broader goal of victim safety.

Personal accountability focuses on the ways in which a domestic violence offender makes amends for coercive behaviors that have harmed the victim and creates a plan to avoid future harmful conduct.

“Accountability means that the offender not only admits to the violent conduct, but also apologizes for it and then makes amends for it by changing himself or herself so the violence will never happen again.”

Hon. Roberto Cañas Dallas County Specialized Criminal Domestic Violence Court

In order to ensure individual accountability, it must be paired with institutional accountability, in which courts and stakeholders create protocols and processes to ensure that their response to the offender increases victim safety and reduces violence. Research indicates that domestic violence courts in the United States not only indicate offender accountability as one of their highest goals, but that they have also created reporting protocols with court-mandated programs and judicial reviews to support this goal.^{iv}

Deterrence in Practice: In response to increasing rates of domestic violence in High Point, North Carolina, law enforcement borrowed the approach of “focused deterrence” from drug and gang offenders and applied it to low and high risk domestic violence offenders. The High Point Police Department implemented a system of positive incentives, community engagement, and warnings of jail time with measurable success.^v

Strategies for Deterrence

Courts and stakeholders should create compliance strategies that enhance their ability to identify noncompliance and impose sanctions with certainty, celerity, and the appropriate severity.

- Implement a formal compliance calendar;
- Work with stakeholders to create a sanctioning matrix that can be shared with the defendant;
- Ensure that court and stakeholders consistently and in plain language explain the consequences of noncompliance;
- Request that offenders reiterate their promise to comply;
- Work with stakeholders to create uniform compliance reports;
- Identify which stakeholders need to be at compliance hearings;
- Identify sanctions and positive reinforcements to respond to the individual offender; and
- Identify ways in which technology can be used to share compliance information.

For more information or to request training and technical assistance, visit:

<http://www.courtinnovation.org/topic/domestic-violence>

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Resources

1. Evidence-Based Strategies for Working with Offenders
<http://www.biscmi.org/wp-content/uploads/2014/12/Evidence-Based-Strategies-for-working-with-Offenders-Rampel-CCI-2014.pdf>
2. Domestic Violence Court Compliance Monitoring
<https://www.supremecourt.ohio.gov/JCS/domesticViolence/topics/DVCourts/DVComplianceMonitoring.pdf>

Endnotes

- i. Young, D. and Belenko, S. (2002). “Program Retention and Perceived Coercion in Three Models of Mandatory Drug Treatment.” *Journal of Drug Issues* 32: 297-328.
- ii. Marlowe, D.B. and Wong, C.J. (2008). “Contingency Management in Adult Criminal Drug Courts” in Higgins, S.T., Silverman, K., and Heil, S. H. (eds.), *Contingency Management in Substance Abuse Treatment* (pp. 334-354). New York, NY: Guilford Press.

- iii. For more information on creating a compliance calendar, see the Center for Court Innovation's Domestic Violence fact sheet "Domestic Violence Compliance Monitoring."
- iv. Labriola, M., Bradley, S., O'Sullivan, C.S., Rempel, M., and Moore, S. (2009). "A National Portrait of Domestic Violence Courts." National Institute of Justice.
- v. Buntin, John (2016). "How High Point, N.C., Solved Its Domestic Violence Problem." Governing the States and Localities.

This project is sponsored by Award No. 2015- TA-AX-K023 awarded by the Office on Violence Against Women. The opinions, findings, and conclusions in this document are those of the authors and do not necessarily reflect the views of the Department of Justice. Published by the Center for Court Innovation.

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