

## HOW ARE DV OFFENDERS HELD ACCOUNTABLE IN KNOXVILLE AND KNOX COUNTY JUSTICE SYSTEM INTERVENTIONS?



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# HOW ARE DOMESTIC VIOLENCE OFFENDERS HELD ACCOUNTABLE IN KNOXVILLE AND KNOX COUNTY JUSTICE SYSTEM INTERVENTIONS?

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## **ACKNOWLEDGEMENTS**

In August 2009, at the request of The Knoxville Family Justice Center, the members of the audit team agreed to use a Domestic Violence Safety and Accountability Audit to explore how domestic violence offenders are held accountable in the Knoxville/Knox County justice system. The following people came together as an Audit Team, contributing many hours to plan and carry out the Audit:

- Emily Anne Buck, Knox County Sheriff's Office; Pretrial Officer
- Chelsea Childress, Knoxville Family Justice Center; Intern and Child and Family TN; Transitional Housing Advocate
- Evelyn Condon, YWCA; Director of Victim Advocacy Program
- Amy Dilworth, Knoxville Family Justice Center; Executive Director
- Sheri Eastridge, Child and Family TN; Transitional Housing Supervisor
- Lauren Gangaware, Knoxville Family Justice Center; Intern and Child and Family TN; Transitional Housing Advocate
- Janet Gurwitch, Knox County Attorney General's Office; Prosecutor
- Tom Hale, Integrous Counseling; Batterer's Intervention Provider
- Angela Hoffman, Knox County Health Department; Rape and Violence Prevention Educator
- Katrina Jordan, Safe Haven Center; Advocate
- David Kitts, Knoxville Police Department; Family Crimes Unit Program Manager
- Richard Major, Knox County Magistrate's Office; Chief Magistrate
- Rhonda Martinson, Battered Women's Justice Project; Attorney and Consultant to the Audit Team
- Lee Mitchell, Knoxville Family Justice Center; Intern
- Mandy Palmiter, Tennessee Board of Probation and Parole; Probation Officer
- Pat Read, Legal Aid of East TN; Family Justice Center Domestic Violence Outreach Paralegal
- Sarah Rogers, Child and Family TN; Domestic Violence Outreach Supervisor

- Rachael Searcy, Knoxville Family Justice Center; Audit Coordinator and Program Manager
- Nikki Tucker, Child and Family TN; Transitional Housing Advocate
- Lisa Williams, Knox County Sheriff's Office; Victim Advocate

Knox County citizens owe a special thank you to Rachael Searcy and the members of the local Audit Team, to Rhonda Martinson and the Battered Women's Justice Project, to the partners in Knox County's coordinated community response to violence against women and to support staff for their ongoing assistance with the Audit. Without the willingness to be self-evaluative and without a commitment to creating a better criminal justice response to families living in fear of an abuser, our community would not have been able to carry out the Audit and identify places in which the community could develop stronger attention to safety for domestic abuse victims and accountability for domestic abuse offenders.

Team members received permission from their agencies to contribute time and agency resources to the Audit. Additionally, these agencies allowed team members to interview staff, observe staff at work, and conduct focus groups with staff and/or clients. The Knox County Attorney General's Office, Knoxville Police Department, Knox County Sheriff's Office, and Fourth Circuit Court Clerk's Office opened its files and provided access to their processes. The following agencies deserve thanks for contributing staff time and access:

- Child and Family TN
- Complete Counseling North
- E-911 Call Center
- Integrous Counseling
- Knox County Attorney General's Office
- Knox County Detention Facility
- Knox County Felony Court
- Knox County Fourth Circuit Court
- Knox County Fourth Circuit Court Clerk's Office
- Knox County Magistrate's Office
- Knox County Probation
- Knox County Sessions Court

- Knox County Sheriff's Office
- Knoxville Police Department
- Tennessee Board of Probation and Parole
- University of Tennessee Police Department
- YWCA

The Audit Team members would also like to thank those individuals working in the Knoxville/Knox County justice system (judges, prosecutors, investigators, advocates, victim witness specialists, witness protection staff, administrative staff and law enforcement officers) who helpfully and good-naturedly allowed themselves to be observed and interviewed while at their daily work of processing domestic abuse cases.

The participation of these agencies and individuals indicates their dedication, wisdom and ongoing support of systems change efforts. They are visionary leaders in this community who continue to remind us that respect and empathy across agencies are required elements in improving our response to domestic abuse victims and their children. Their willingness to think critically and be self-evaluative contributed to the success of this project and will contribute to the success of future endeavors.

In carrying out the activities of the Audit, the team coordinator and members were able then to contribute substantially to this report's content, which was then authored by Rhonda Martinson.

Additionally, thank you to Ellen Pence of PRAXIS, International for her vision in developing one of the most successful methods of evaluating governmental responses to violent crime and abuse in our community. Knox County has learned a great deal from this process, to the betterment of victim safety and offender accountability within its jurisdiction.

The Audit Team hopes that community leaders, agency directors and supervisors, and frontline workers are inspired to view this report as a living document: using it as a training tool and a catalyst for dialogue and examination within communities; institutionalizing the recommendations in our community's response to domestic abuse; and applying this ability to evaluate ourselves to updating and revising our responses to domestic abuse in the future.

Finally, and most importantly, the Audit Team members would like to thank those formerly battered women who participated in focus groups and individual interviews, and fearlessly and unashamedly shared their stories, thoughts, insights, and suggestions for the future.

## **DESCRIPTION OF THE COMMUNITY**

### **Knox County<sup>1</sup>**

#### **Geography**

Knox County, Tennessee is at the center of the Great Valley of East Tennessee. Near the heart of the county is the origin of the Tennessee River, at the union of the Holston and French Broad Rivers. Knox County has a total land area of 508 square miles and is included in the Knoxville Metropolitan Area. The county seat is Knoxville.

#### **Demographics**

While the 2009 population was estimated at 435,725 by the United States Census Bureau, as of the census of 2000, there were 382,032 people, 157,872 households and 100,722 families residing in the county. The population density was 751 people per square mile. There were 171,439 housing units at an average density of 337 per square mile. There were 157,872 households out of which 28.50% had children under the age of 18 living with them, 49.80% were married couples living together, 10.90% had a female householder with no husband present, and 36.20% were non-families. 29.60% of all households were made up of individuals and 9.10% had someone living alone who was 65 years of age or older. The average household size was 2.34 and the average family size was 2.92.

The median income for a household in the county was \$37,454, and the median income for a family was \$49,182. Males had a median income of \$35,755 versus \$25,140 for females. The per capita income for the county was \$21,875. About 8.40% of families and 12.60% of the population were below the poverty line, including 14.50% of those under age 18 and 9.70% of those age 65 or over.

The racial makeup of the county was 88.10% White, 8.63% Black or African American, 0.26% Native American, 1.29% Asian, 0.03% Pacific Islander, 0.50% from other races, and 1.18% from two or more races. 1.26% of the population was Hispanic or Latino of any race.

22.30% of the population was under the age of 18, 11.60% from 18 to 24, 30.40% from 25 to 44, 23.10% from 45 to 64, and 12.70% who were 65 years of age or older. The median age was 36 years. For every 100 females there were 93.50 males. For every 100 females age 18 and over, there were 90.10 males.

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<sup>1</sup> "Knox County, Tennessee," Wikipedia, accessed November 18, 2010, [http://en.wikipedia.org/wiki/Knox\\_County,\\_Tennessee](http://en.wikipedia.org/wiki/Knox_County,_Tennessee).

## Knoxville, Tennessee<sup>2</sup>

### Geography

Knoxville is the third-largest city in the state of Tennessee and is the county seat of Knox County. It is the largest city in East Tennessee and the principal city of the Knoxville Metro Area.

### Demographics

While the 2007 population was estimated at 183,546 by the United States Census Bureau, as of the census of 2000, there were 177,661 people, 76,650 households, and 40,164 families residing in the city. The population density was 1,876.7 people per square mile. There were 84,981 housing units at an average density of 917.1/sq mile. There were 76,650 households out of which 22.8% had children under the age of 18 living with them, 35.3% were married couples living together, 13.7% had a female householder with no husband present, and 47.6% were non-families. 38.3% of all households were made up of individuals and 11.4% had someone living alone who was 65 years of age or older. The average household size was 2.12 and the average family size was 2.84.

The median income for a household in the city is \$27,492, and the median income for a family is \$37,708. Males had a median income of \$29,070 versus \$22,593 for females. The per capita income for the city is \$18,171. About 14.4% of families and 20.8% of the population were below the poverty line, including 26.1% of those under age 18 and 12.0% of those age 65 or over.

While population and numbers of households are expected to follow employment growth and increase demand for housing, since 1990 average household size has been decreasing steadily. This decrease can be attributed to a growing number of students and retirees and to an overall demographic shift toward smaller families. In 2006, ERI published an analysis that identified Knoxville as the most affordable U.S. city for new college graduates, based on the ratio of typical salary to cost of living.

The racial makeup of the city was 79.7% White, 16.2% African American, 1.45% Asian, 0.31% Native American, 0.03% Pacific Islander, 0.72% from other races, and 1.57% from two or more races. Hispanic or Latino of any race was 1.58% of the population. 19.7% of the population was under the age of 18, 16.8% from 18 to 24, 29.5% from 25 to 44, 19.6% from 45 to 64, and 14.4% who were 65 years of age or older. The median age was 33 years. For every 100 females there were 90.0 males. For every 100 females age 18 and over, there were 86.3 males.

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<sup>2</sup> "Knoxville, Tennessee," Wikipedia, accessed November 18, 2010, <http://en.wikipedia.org/wiki/knoxville>.

## Economy

Knoxville's economy is largely fueled by the regional location of the main campus of the University of Tennessee, the Oak Ridge National Laboratory and other Department of Energy facilities in nearby Oak Ridge, the National Transportation Research Center, and the Tennessee Valley Authority.

Because of its central location in the eastern half of the United States and at the junction of two major interstate highways, many warehousing and distribution companies operate in and around Knoxville. The Old City is home to most of Knoxville's historic warehouses and factories.

In April 2008, *Forbes Magazine* named Knoxville among the Top 10 Metropolitan Hotspots in the United States and within Forbes' Top 5 for Business & Careers, just behind cities like New York and Los Angeles.

In March 2009, CNN ranked Knoxville as the 59th city in the top 100 US metro areas, in terms of real estate price depreciation. The median price of a home in Knoxville is \$184,900.

## Colleges and Universities

The University of Tennessee at Knoxville is the state's flagship public university. Besides being home to the main campus of the University of Tennessee, Knoxville is also home to:

- Fountainhead College of Technology (formerly Tennessee Institute of Electronics)
- Johnson University
- Knoxville College
- Pellissippi State Community College
- South College (formerly Knoxville Business College)

In addition, the following institutions have branch campuses in Knoxville:

- ITT Technical Institute
- Lincoln Memorial University (includes Duncan School of Law)
- National College of Business & Technology
- Roane State Community College
- Strayer University
- Tennessee Wesleyan College
- Tusculum College

Also, the distance education offeror Huntington College of Health Sciences has its offices in Knoxville.



## **DESCRIPTION OF THE PROBLEM**

### **National<sup>3</sup>**

#### **Victims**

85% of domestic violence victims are women. Historically, females have been most often victimized by someone they knew. An estimated 1.3 million women are victims of physical assault by an intimate partner each year. Females who are 20-24 years of age are at the greatest risk of nonfatal intimate partner violence. One in four women will be abuse in their lifetime.

#### **Types of Domestic Abuse Experienced**

Research approximates that only one-quarter of all physical assaults, one-fifth of all rapes, and one-half of all stalkings perpetuated against females by intimate partners are reported to the police.

Approximately 20% of the people who experience intimate partner violence annually obtain civil protection orders. Approximately one-half of the orders obtained by women against intimate partners who physically assaulted them were violated. More than two-thirds of the restraining orders against intimate partners who raped or stalked the victim were violated.

Sexual assault or forced sex occurs in approximately 40-45% of battering relationships. Nearly 7.8 million women have been raped by an intimate partner at some point in their lives.

1 in 12 women and 1 in 45 men have been stalked in their lifetime. 81% of women stalked by a current or former intimate partner are also physically assaulted by that partner; 31% are also sexually assaulted by that partner.

Almost one-third of female homicide victims that are reported in police records are killed by an intimate partner. In 70-80% of intimate partner homicides, no matter which partner was killed, the man physically abused the woman before the murder.

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<sup>3</sup> "Domestic Violence Facts," National Coalition Against Domestic Violence, last modified July 2007, accessed November 18, 2010, [http://www.ncadv.org/files/DomesticViolenceFactSheet\(National\).pdf](http://www.ncadv.org/files/DomesticViolenceFactSheet(National).pdf); "Domestic Violence Facts," National Coalition Against Domestic Violence, last modified July 2007, accessed November 18, 2010, [http://www.ncadv.org/files/DomesticViolenceFactSheet\(National\).pdf](http://www.ncadv.org/files/DomesticViolenceFactSheet(National).pdf); and "Adverse Health Conditions and Health Risk Behaviors Associated with Intimate Partner Violence – United States 2005," Morbidity & Mortality Weekly Report February 8, 2008, pages 113-117, accessed December 20, 2010, <http://www.cdc.gov/mmwrhtml/mm5705a1.htm>.

## Costs

Less than one-fifth of victims reporting an injury from intimate partner violence sought medical treatment following the injury. Intimate partner violence results in more than 18.5 million mental health care visits each year. The cost of intimate partner violence exceeds \$5.8 billion each year, \$4.1 billion of which is for direct medical and mental health services. Victims of intimate partner violence lost almost 8 million days of paid work because of the violence perpetrated against them by current or former husbands, boyfriends and dates. This loss is the equivalent of more than 32,000 full-time jobs and almost 5.6 million days of household productivity as a result of violence. There are 16,800 homicides and 2.2 million (medically treated) injuries due to intimate partner violence annually, which costs \$37 billion.

## **State**

### Homicide

In 2008, Tennessee was fifth in the nation in the number of women murdered by men. Over the last decade, Tennessee has consistently ranked high in this yearly study conducted by the Violence Policy Center. Using FBI homicide statistics, the Center has over the last 11 years ranked Tennessee nine times in the "Top 10" and four times in the "Top 5."<sup>4</sup>

63 women were murdered by men in Tennessee in 2008. For homicides in which the victim's relationship to the offender could be identified, 95 percent (57 out of 60) were murdered by someone they knew. Of the victims who knew their offenders, 56 percent (32 victims) were wives, common-law wives, ex-wives or girlfriends of the offenders. 63 percent (20 victims) were killed with guns; 55 percent of these (11 victims) were shot and killed with handguns.<sup>5</sup>

### Assault

Tennessee reported that in 2004, 40% of all crimes against persons,<sup>6</sup> and in 2009, 50% of all crimes against persons, were domestic violence offenses.<sup>7</sup>

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<sup>4</sup> Brian Haas, "Tennessee is Fifth in the U.S. in Murders of Women by Men," *The Tennessean*, October 30, 2010, accessed November 19, 2010, <http://www.tennessean.com/article/20101030/NEWS03/10300337/2066/TN+is+5th+in+U.S.+in+murders+of+women+by+men>.

<sup>5</sup> *When Men Murder Women: An Analysis of 2008 Homicide Data*, Violence Policy Center, September 2010, page 26, accessed November 19, 2010, <http://www.vpc.org/studies/wmmw2010.pdf>.

<sup>6</sup> "Tennessee Domestic Violence Facts," National Coalition Against Domestic Violence, accessed November 18, 2010, <http://www.ncadv.org/files/tennessee%202.09.pdf>.

<sup>7</sup> *Crime in Tennessee 2009*, Tennessee Bureau of Investigation Crime Statistics Unit, page 6, accessed November 19, 2010, [http://www.tbi.state.tn.us/tn\\_crime\\_stats/documents/CrimeinTN2009.pdf](http://www.tbi.state.tn.us/tn_crime_stats/documents/CrimeinTN2009.pdf).

In 2009, Tennessee agencies reported 85,389 domestic violence incidents. 61,952 of the victims (72.55%) were female, 23,306 (27.29%) were male and 131 (.16%) were unknown. The most frequently reported assault offense was simple assault at 59,130 (69.24%). The second most frequently reported domestic violence offense was intimidation at 12,168 (14.25%).<sup>8</sup> In addition to these general statistics, there is specialized research on domestic violence using 2005 statistics. 1,079 (1.24%) of the 87,106 domestic violence incidents in 2005 were reported as being a violation of an order of protection. The most frequently reported offense was simple assault at 495 (45.88%). The second most frequently reported offense was intimidation at 306 (28.36%).<sup>9</sup>

### Time and Location

Of the 85,389 domestic violence incidents reported in 2009, the day of the week with the highest reported occurrences was Sunday with 14,009 (16.41%). The second highest day was Saturday with 13,889 (16.27%). The most frequently reported time of day was 6:00 p.m. to 8:59 p.m. with 16,194. (18.96%). The second most frequently reported time of day was 9:00 p.m. to 11:59 p.m. with 16,125 (18.88%). The most frequently reported location was residence/home at 72,575 (84.99%). The second most frequently reported location was highway/road/alley at 4,500 (5.27%).<sup>10</sup>

### Weapons

In the 85,389 domestic violence incidents reported in 2009, Tennessee agencies reported 72,294 weapon types. The most frequently reported weapon type was personal weapons at 59,467 (69.64%), which involves the use of hands, fists, feet or teeth. A wide variety of weapon types were reported for the remaining 14,478 (16.96%). The following list categorizes the types of weapons used. Please note the total of weapon types do not match the total of incidents since up to three weapon types per offense may have been reported.<sup>11</sup>

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<sup>8</sup> *Domestic Violence Offenses and Clearances 2009*, Tennessee Bureau of Investigation Crime Statistics Unit, , accessed January 24, 2011,

<http://www.tennesseeonline.com/tibrspublic2005/View/dispview.aspx>.

<sup>9</sup> *Domestic Violence Research Brief*, Tennessee Bureau of Investigation Crime Statistics Unit, August 2006, page 2, accessed November 19, 2010,

[http://www.tbi.state.tn.us/tn\\_crime\\_stats/publications/2005%20DomesticViolResBrief.pdf](http://www.tbi.state.tn.us/tn_crime_stats/publications/2005%20DomesticViolResBrief.pdf).

<sup>10</sup> *Domestic Violence Offenses and Clearances 2009*, Tennessee Bureau of Investigation Crime Statistics Unit, , accessed January 24, 2011,

<http://www.tennesseeonline.com/tibrspublic2005/View/dispview.aspx>.

<sup>11</sup> Ibid.

- Firearm (specific type not stated) – 232
- Handgun - 1,541
- Rifle - 162
- Shotgun - 273
- Other firearm - 24
- Knife/cutting instrument - 3,099
- Blunt object - 2,234
- Asphyxiation - 41
- Personal weapons – 59,467
- Poison – 74
- Other weapons – 4,425
- Unknown – 722
- None – 1,651

### Injuries

Of the 85,389 domestic violence incidents reported in 2009, Tennessee agencies reported 50,384 injury types. The most frequently reported injury type was apparent minor injury at 34,509 (40.41%). The total number of injury types does not match the total number of incidents since up to five different injury types per victim may have been reported.<sup>12</sup>

- Apparent broken bones - 288
- Possible internal injuries - 481
- Severe laceration – 954
- Apparent minor injury – 34,509
- None - 35,488
- Other major injury - 516
- Loss of teeth - 60
- Unconsciousness – 221
- Missing – 13,355

### Court Filings

During fiscal year 2008-2009, 1,826 requests for orders of protection orders were filed in Tennessee Chancery Courts, 6,460 in Circuit Courts, and 3,648 criminal filings of offenses against a family member in Circuit Courts.<sup>13</sup>

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<sup>12</sup> Ibid.

<sup>13</sup> *Annual Report of the Tennessee Judiciary: Fiscal Year 2008-2009*, Tennessee Court System, pages 17, 19-20, accessed November 20, 2010, <http://www.tsc.state.tn.us/geninfo/Publications/AnnualReport/2008-2009/2008-2009%20Annual%20Report%2002192010.pdf>.

## Domestic Violence Services

On September 15, 2009, 33 out of 33, or 100%, of identified local domestic violence programs in Tennessee participated in the *2009 Domestic Violence Counts 24 Hour Census* conducted by the National Network to End Domestic Violence:<sup>14</sup>

831 victims were served in one day.

- 375 domestic violence victims found refuge in emergency shelters or transitional housing provided by Tennessee domestic violence programs.
- 456 adults and children received non-residential assistance and services, including individual counselling, legal advocacy, and children's support groups.

The services provided by Tennessee programs were:

- emergency shelter (85%),
- individual support or advocacy (82%),
- advocacy related to immigration (21%),
- advocacy related to housing office/landlord (39%),
- court accompaniment/advocacy (55%),
- rural outreach (30%), and
- advocacy related to child welfare/protective services (24%).

414 hotline calls were answered.

- Domestic violence hotlines are a lifeline for victims in danger, providing support, information, safety planning, and resources. In the 24-hour survey period, Tennessee domestic violence programs answered approximately 17 hotline calls every hour.

302 were educated in prevention and education trainings.

- On the survey day, 302 individuals in communities across Tennessee attended 20 training sessions provided by local domestic violence programs, gaining much needed information on domestic violence prevention and early intervention.

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<sup>14</sup> "Tennessee Domestic Violence Statistics," Tennessee Coalition Against Domestic and Sexual Violence, accessed November 18, 2010, <http://tcadsv.org/#/resources/stats-a-facts/domestic-violence-statistics.html>.

51 made unmet requests for services.

- Many Tennessee programs reported a critical shortage of funds and staff to assist victims in need of services, such as emergency shelter, housing, transportation, childcare, and legal representation. Of these unmet requests, 40 (78%) were from victims seeking emergency shelter or transitional housing.
- Tennessee programs were unable to provide services for many reasons, as reported below.
  - 24% reported no available beds or funding for hotels.
  - 24% reported not enough funding for needed programs and services.
  - 18% reported not enough specialized services.
  - 15% reported limited funding for translators, bilingual staff, or accessible equipment.
  - 12% reported not enough staff.

### Cost

In 2004, the estimated cost of domestic violence to Tennessee businesses was 71,264.3 days of paid work lost because of domestic violence assaults, 31,096.5 days lost because of domestic violence-related stalking and 1,274.7 days lost because of intimate partner rape. That's 103,635.5 days of paid work or 417 full-time jobs. The median wage for a full-time worker in Tennessee in 2004 was \$24,488 or \$98.74 per day. So, about \$10,232,969 of paid work was lost due to domestic violence crime.<sup>15</sup>

According to testimony in 2003 by Blue Cross Blue Shield of Tennessee, domestic violence causes excessive and expensive use of healthcare services, both public and private. Blue Cross Blue Shield estimated a total of \$32,969,848 was being spent annually in Tennessee on known domestic violence healthcare.<sup>16</sup> Reported emergency room costs for domestic violence related injuries were estimated in 2004 at \$18 million every year in Tennessee. According to the same estimates, non-emergency visits in Tennessee cost about \$1.2 million each year.<sup>17</sup>

Hearing testimony from probation and court officials in 2002 confirmed that domestic violence impacts police, courts, prisons, legal departments, and all related services. Tennessee spent an estimated \$49.9 million annually on processing domestic violence

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<sup>15</sup> *The Impact of Domestic Violence on the Tennessee Economy*, by the Tennessee Economic Council on Women, January 2006, page 4, accessed November 19, 2010, <http://www.state.tn.us/sos/ecw/The%20Cost%20of%20Domestic%20Violence.pdf>.

<sup>16</sup> Ibid, p. 5

<sup>17</sup> Ibid, p. 6.

court cases. This figure included \$26 million for probation oversight of offenders, \$14.7 million for prison costs of domestic violence murderers, \$4.4 million in pre-trial jail costs for arrested offenders, \$3.2 million for divorce costs due to domestic violence, \$920,000 in domestic violence custody filing fees, and \$70,800 in protection order processing fees.<sup>18</sup>

Tennessee Department of Children's Services and family violence shelters bear a large portion of the cost of domestic violence. Although domestic violence is highly detrimental to the physical and psychological well being of a child, the Department of Children's Services removes a child from the home only if he or she is at imminent risk of harm. The minimum cost to place a child in state custody and to provide counseling and testing is \$5,000 per month. This includes \$600 for parental assessment, \$300 for psychiatric testing, and \$210 for family counseling twice a month for each case. The sum could increase to \$25,000 to \$44,000 per month for a child receiving special services in counseling, health care, education specialists and foster care placement. At the end of fiscal year 2004 there were 10,281 children in state custody, (7,664 of which were adjudicated to state custody as dependent/neglected). Educationally, domestic violence seriously affects a child's development. Maltreated children are two and one-half times more likely to repeat a grade in school. Dropout rates increase and standardized test performances are low. The state assists children with these detrimental effects through educational assessments, at a cost of between \$1,500 and \$2,500 per student.<sup>19</sup>

## **Knox County**

### Calls for Service

During this Audit, the 911 call processors observed and interviewed by Audit Team members had an anecdotal sense of perhaps 20-25 calls per day from domestic violence victims.

In 2010, E-911 dispatched 13,327 domestic violence calls for service to the Knoxville Police Department, and 5,735 to the Knoxville Sheriff's Department, for a total of 19,062 domestic violence calls for service. The police department responded to three domestic violence homicides and the sheriff's department responded to five, for a total of eight domestic violence homicides.<sup>20</sup>

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<sup>18</sup> Ibid.

<sup>19</sup> Ibid, p. 8.

<sup>20</sup> Domestic Violence Calls for Service Crime Report, requested of Knoxville Police Department's Crime Analysis Unit, October 2010.

## Court Filings

In fiscal year 2008-2009, District 6 Chancery filings included 58 for orders of protection, District 6 Circuit Court filings included 2,615 for orders of protection, and District 6 Criminal filings included 141 for offenses against family members.<sup>21</sup>

## Probation

As of March 2011, the office of the Board of Probation and Parole (BOPP) in Knoxville was supervising approximately 5,500 felony offenders sentenced out of Knox County courts, although the deputy district director indicates this may be a conservative estimate, as daily revocations and new admissions keep the number fluid. BOPP supervises offenders on probation and parole. There is no statutory felony domestic violence charge; so technically, BOPP staff is not supervising any offenders on these charges. There are three Pre-Sentence Investigation (PSI) Writers - one for each criminal court division - who prepare documentation and reports which help the court determine how to sentence an offender. The writers estimate that they prepare one to three PSIs per month of offenders charged with aggravated assaults or other non-domestic violence charges which turn out to be domestic violence in nature once the facts are examined. It is more likely for BOPP to be supervising an offender for another offense and then to see them arrested/charged with a domestic violence offense. A domestic violence charge is a mandatory violation. BOPP staff estimate that happens three times a month. It is not unusual for staff to have offenders on caseload with domestic violence charges in their past.

As for Parole, Hearings Officers handle grant hearings (letting an offender out of prison) and revocation hearings (putting them back in prison). The two Hearings Officers estimate grants at an extremely low level for a non-domestic charge that is actually domestic in nature – perhaps five per year. Revocations occur more often – perhaps twice a month. However, both officers noted it is almost never the actual domestic violence charge that sends offenders back to prison. Revocation requires only a preponderance of the evidence, and it only requires a guilty plea to one rule violation for an offender to be sent back to prison.<sup>22</sup>

County Probation did not separate out domestic assault charges from simple assault through 2010 (they plan to track that beginning in 2011). As of November 8, 2010, there were 2,074 persons on county probation. 156 of these were on county probation for simple assault. The others were on probation due to drug charges, etc.<sup>23</sup> In 2009,

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<sup>21</sup> Supra, note 13, pp. 71, 73, 75.

<sup>22</sup> Amanda Palmiter, e-mail message to author, March 16, 2011.

<sup>23</sup> David Kitts, e-mail message to author, November 9, 2010.



50% of all crimes against persons in Tennessee were domestic violence offenses<sup>24</sup> and so perhaps it would be fair to estimate that of those 156 individuals on probation in Knox County for simple assault, half of them are likely on probation for a domestic violence-related assault.

### Domestic Violence Services

In 2010, the Knoxville Family Justice Center served 2,235 domestic violence victims.<sup>25</sup>

The YWCA Victim Advocacy Program (VAP) is a part of the Family Justice Center. Seven advocates and two group facilitators provide advocacy, safety planning, and support groups to victims and their families. The VAP is the only program with advocates in both civil and criminal courts; with outreach to victims isolated by language and cultural barriers, lack of transportation, disability, and social stigma; and with advocates and group facilitators bilingual in English and Spanish. The VAP also provides community education on domestic and dating violence through schools, after-school programs, universities, sororities and fraternities, places of worship, social-service agencies, and community groups. The VAP leads the “Week Without Violence” each October to encourage people to explore how images of violence affect their lives, to remember victims and survivors, and to understand intimate-partner violence as a community problem.<sup>26</sup> In 2009, the VAP made 8,291 contacts (walk-ins, court appearances, phone calls, and support groups) with victims of domestic violence, with 2,492 referrals to community agencies.<sup>27</sup>

Child & Family Tennessee's Family Crisis Center (FCC) offers emergency shelter, safety planning, advocacy, support groups, individual counseling, help with transitional and permanent housing, and resources to increase self-sufficiency for abused women, children and seniors fleeing domestic violence. The FCC responds 24 hours a day through a telephone hotline. FCC Outreach provides services in the community and as on-site at Knoxville's Family Justice Center. From October 2009 to October 2010, the center served 150 women and 75 children at the shelter, took 2,993 calls on their hotline, provided support groups to 133 women, and provided individual counseling to 119 women.<sup>28</sup>

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<sup>24</sup> Supra, note 7.

<sup>25</sup> Supra, note 20.

<sup>26</sup> Sara Baker, e-mail message to author, April 14, 2011.

<sup>27</sup> Evelyn Condon, e-mail message to author, November 9, 2010.

<sup>28</sup> Sarah Rogers, e-mail message to author, October 18, 2010.

## **KNOX COUNTY'S HISTORY OF A COORDINATED COMMUNITY RESPONSE TO DOMESTIC VIOLENCE**

Agencies in Knox County have made a long-term investment (monetary and in-kind) in supporting policies, procedures, and educational programs addressing domestic violence in the community. In addition, local foundations, hospitals, and businesses have supported educational efforts that have strengthened advocacy service programs and community education.

Coordinated efforts began informally in 1985 and have evolved extensively.

Legal Aid of East Tennessee (LAET) began serving victims of domestic violence in Knox County in 1965 as the Knoxville Legal Aid Society. They have been an integral part of the coordinated community response in the Knoxville/Knox County community since it began. Since the opening of the Family Justice Center (FJC), LAET has expanded their services for victims and placed an attorney, paralegal and law clerk at the FJC, offering intake, safety planning, legal advice, and representation primarily on orders of protection and divorce legal for domestic violence victims, but also housing, evictions, employment, education, and public benefits.<sup>29</sup> In 2010 LAET opened 387 Order of Protection cases for Knox County residents. LAET opened 161 divorce cases (including pro se clinic cases). Duplicate cases are not opened. If there are contempt issues within the same year, of which there are many, LAET does not open additional cases.

In 1995, the Sheriff's Office established its Family Crisis Unit to investigate reports of domestic violence, assist domestic violence victims with navigating the court system (including requests for orders of protection and for criminal warrants), provide safety planning, assist in applying for victim's compensation, offer information and referrals to community agencies, conduct officer training, and provide court advocacy to victims of domestic violence, child abuse and elder abuse. The Family Crisis Unit collaborates with both public and private sectors within the community. Since 1995, it has assisted over 200,000 Knox County residents and is now located inside the Family Justice Center. It is staffed with a captain, lieutenant, six detectives, four advocates and a case manager. The average case load per detective is 75 to 100 cases per month.<sup>30</sup>

In 1997, with federal funding from a S.T.O.P. (Services. Training. Officers. Prosecutors) grant, the Knoxville Police Department established its Domestic Violence Unit to provide criminal investigation, crisis counseling, assistance with completing orders of protection and criminal warrants, victims' compensation information, safety planning and court accompaniment<sup>31</sup>, referrals to community agencies for social services, referrals for group and individual counseling, community education, and officer training and

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<sup>29</sup> Debra House, e-mail message to author, April 17, 2011.

<sup>30</sup> Lisa Williams, e-mail message to author, March 2, 2011.

<sup>31</sup> Darrell Griffin, e-mail message to author, April 15, 2011.

education.<sup>32</sup> The YWCA Victim Advocacy Program (VAP) then began a unique partnership with the Police Department.<sup>33</sup> KPD's Domestic Violence Unit operates with a dual approach, offering police investigation and providing crisis intervention through victim social services. In 1998, federal funding from the Violence Against Women Act solidified the services and key personnel of the Domestic Violence Unit. Subsequently, domestic violence investigators cross-trained with juvenile investigators to create a more holistic approach to family violence; and in 2009, the Knoxville Police Department merged its Juvenile Unit with the Domestic Violence Unit and created the Family Crimes Unit. This new unit investigates cases involving child abuse, domestic violence, elder abuse, and missing persons to its investigative responsibilities.

In 1997, the coordinated efforts that began informally in 1985 evolved into the Community Coalition on Family Violence (CCFV). As the umbrella organization for public education and collaboration efforts, CCFV has a lengthy list of accomplishments. A few examples include:

- 2000: The Domestic Abuse Intervention Project, in conjunction with the Knoxville and Knox County governments and community agencies, conducted a Domestic Violence Safety Audit. The intensive five-day Safety Audit revealed 105 recommendations that were needed to improve services to victims of domestic violence and to hold offenders accountable.<sup>34</sup>
- 2000: Inception of a Domestic Violence Fatality Review Team that the Attorney General's Office has continued.
- January 2003: A collaborative retreat which led to a joint DV protocol with children's services and an ad hoc committee to research the concept of working together under one roof which ultimately led to the current Family Justice Center.

### Family Justice Center

The idea of a Family Justice Center was first articulated at a retreat in January 2003 as a way of eliminating many roadblocks which, at the time, inhibited domestic violence victims in Knoxville from becoming free of abuse. In early 2003, a local committee began researching best practices such as the San Diego Family Justice Center, building community support for the vision, and searching for appropriate funding opportunities. The Presidential Family Justice Center Initiative provided exactly the resources to bring this idea and subsequent research to fruition. The Initiative was administered by the

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<sup>32</sup> "Domestic Violence," Knoxville Police Department, accessed December 19, 2010, <http://www.ci.knoxville.tn.us/kpd/domestic.asp>.

<sup>33</sup> Sara Baker, e-mail message to author, April 14, 2011.

<sup>34</sup> *Knoxville Safety and Accountability Audit Combined Team Recommendations*, August 31, 2000, updated May 23, 2001.

United State Department of Justice's Office on Violence against Women. The goal of a Family Justice Center is to make a victim's search for help and justice more efficient and effective by bringing professionals who provide an array of services together under one roof.<sup>35</sup>

The community of Knoxville embraced the idea of a Family Justice Center and made significant investments in bringing the project to fruition. The City of Knoxville provided \$20,000 in seed money to support a planning process for the Knoxville Family Justice Center (KFJC) and provided staff assistance to coordinate the writing of this grant. Knox County assisted with site selection. KFJC first rented space from a partner agency, the Knoxville Community Development Corporation, who offered to decrease the rent and ultimately collaborated with Knox County, who eventually obtained ownership of the building and offered the space free of rent, maintenance, janitorial and utilities as an in-kind donation.

In 2004, the City of Knoxville and Legal Aid of East Tennessee applied for a Family Justice Center grant, including but not limited to the following partners: Knox County, the Community Coalition on Family Violence, the YWCA, Child and Family Tennessee, the Salvation Army, the Knoxville Police Department, the Knox County Sheriff's Office, and the Attorney General's Office.

The Memorandum of Understanding included a total of 63 partner agencies for the KFJC. Over the course of the past five years, some task forces have ended, some agencies have closed their doors, some organizations have merged and some coalitions have changed their focus; however, the total of partner agencies is still over 60.

In their application, the City of Knoxville and Legal Aid of East Tennessee stated that they and their partners would serve domestic violence victims by: expanding existing efforts to investigate and prosecute incidents of DV; improving tracking of DV and dating violence cases; centralizing and coordinating enforcement, prosecution or judicial responsibility for DV cases; coordinating computer-tracking systems to ensure communication among partners; working cooperatively to develop education and prevention strategies; continuing pro-arrest programs and policies; educating judges about DV and improving judicial handling of such cases; providing technical assistance and equipment to facilitate enforcement of protection orders; implementing, expanding, and establishing efforts to provide legal assistance for victims.

The Presidential Family Justice Center Initiative awarded more than \$20 million since October 2003 to only 15 communities across the country for the planning, development, and establishment of comprehensive domestic violence victim service and support centers.<sup>36</sup> Knoxville was one of these 15 communities.

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<sup>35</sup> "The Family Justice Center Initiative," Office on Violence Against Women, accessed November 21, 2010, <http://www.ovw.usdoj.gov/pfjci.htm>.

<sup>36</sup> Ibid, p.19

The City of Knoxville was the grant recipient and through the Knoxville Police Department, it provides oversight and relocated existing domestic violence and child abuse personnel to the KFJC. Knox County works with the City and the Attorney General's Office to establish and sustain the KFJC. The Knox County Sheriff's Office relocated existing domestic violence and child abuse personnel to the KFJC and the Knox County Attorney General relocated an assistant district attorney specializing in domestic violence cases to the KFJC.

Other partners (and their roles/responsibilities if not already described in previous sections):

- Legal Aid of East Tennessee (roles and responsibilities described previously)
- Knox County Probation, Tennessee Board of Probation and Parole, which is on-site, and the Community Alternative to Prison Program act as liaisons to increase victim safety.
- Child & Family Tennessee's Family Crisis Center (roles and responsibilities described previously)
- YWCA Victim Advocacy Program (roles and responsibilities described previously)
- Sexual Assault Crisis Center of East TN (formerly Safe Haven) provides services for survivors of sexual violence: a center where evidence is gathered in a medical exam room after a sexual assault crime is committed; a sexual assault nurse examiner and advocate are available 24/7, 365 days a year to provide services to victims aged 13 and above; advocacy services available through a 24-hour crisis line to assist the victim through the initial interview, forensic evidentiary exam, and the entire criminal justice process; and community resource information. Therapy is available to victims; specialized therapies are also provided for individuals, families, children and groups. The agency provides school-based education programs grades K-12 on personal safety education, public awareness programs and specialized training for professionals and community organizations.
- The University of Tennessee Colleges of Law, Nursing, and Social Work and its Department of Child and Family Studies provide student interns and other pro bono services. The University of Tennessee College of Nursing senior students attend 4<sup>th</sup> Circuit Court to hear order of protection cases. Under the supervision of nursing faculty, students assess victims' danger and any incidence of

strangulation, discuss safety planning, and provide resource information on prenatal care, mental health, substance abuse, and primary care. They also complete plaintiff case histories on victims represented by the University of Tennessee College of Law students in the Domestic Violence Litigation Project.<sup>37</sup>

- The Compassion Coalition assists KFJC with services, volunteers, and other resources. They are a coalition of local churches who by pooling their resources are able to assist victims with various needs such as utility bills, furniture needs, and unique needs that members of churches may be able to meet such as car repair.
- The Knox County Health Department provides a Violence Prevention Coordinator. This personnel resource coordinates the prevention efforts for the community.
- The Community Action Committee helps clients with emergency financial needs and offers access to their other services including case management for obtaining housing through the Homeward Bound Program.
- The Knoxville Fire Department and Rural/Metro Corporation assess domestic violence needs on the scene and provide referrals to the KFJC.
- Salvation Army serves homeless and low-income individuals and families through its Emergency Assistance Program, Christmas Assistance, Corps community activities and five residential shelter programs. The Joy Baker Center (JBC) is an emergency shelter for abused women with or without children and for homeless women with children. The center offers shelter and safety, meals, lodging, material assistance, case management, crisis intervention, court advocacy, a children's program, housing referrals, and assistance with short- and long-term goal planning and counseling services. It provides clients with immediate shelter followed by counseling and court advocacy. Women are helped to plan permanent housing and other services. Partnering with the Family Justice Center, The Salvation Army provides on-site advocates at the Center two days a week and also at Knox County 4<sup>th</sup> Circuit Court.<sup>38</sup>
- Knox Area Rescue Ministries refers victims and offers access to their shelters, two of which provide on-site advocacy.
- Department of Children's Services, Child Protective Services Severe Abuse Investigative Team is provided on-site at the KFJC as a model of law

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<sup>37</sup> Ginger Evans, e-mail message to author, April 15, 2011.

<sup>38</sup> Ola Blackmon-McBride, e-mail message to author, April 27, 2011.

enforcement child abuse units and CPS investigative units working collaboratively in one location. This is a reflection of the protocol written at the 2003 retreat for child abuse advocates and domestic violence advocates to work collaboratively being put into practice by both being located in the KFJC.

- A Hand Up for Women, Senior Aides, Knoxville Community Development Corporation, and Child Support Services are other partners.
- Mercy Health Partners was formed by the merger of St. Mary's Health System and Baptist Health System of East Tennessee in 2008. The new healthcare system operates seven acute care hospitals and 20 other healthcare facilities across East Tennessee. The system provides support for various agencies addressing family violence, primarily through emergency services and monetary grants.<sup>39</sup>
- Clergy Task Force Against Family Violence was established in 2002 with the purpose of training religious leaders and congregations about Domestic Violence. The Clergy Task Force has hosted three regional conferences and has written a devotional for the KFJC.

Off-site partners not already mentioned above include: 211; Alianza del Pueblo; Boys and Girls Clubs; ChildHelp USA; Disability Resource Center; East Tennessee Human Resource Agency; East Tennessee Victims Rights Task Force; Fourth Circuit Court; Goodwill Industries; Helen Ross McNabb Center; Heart of Knoxville Career Center; Immigrations Customs Enforcement; Knox Adolescent Pregnancy Prevention Initiative; Knox Area Ministerial Association; Knox County Juvenile Court; Knox County Schools; Knoxville Area Urban League; Knoxville Bar Association; Office of the U.S. Attorney; Senior AIDES; Tennessee Coalition Against Domestic and Sexual Violence; Tennessee Department of Children's Services; Tennessee Department of Human Services and its Adult Protective Services unit; and two area hospitals.

The Knoxville Family Justice Center (KFJC) incorporates a multitude of victim services into its work plan and the Memorandum of Understanding among its partners: central intake; on-site information sharing; on-site counseling; protective orders; legal assistance; links to medical and mental health professionals; links to child care; assistance with emergency transportation; vouchers for public transportation; food vouchers; a strong volunteer component; on-site chaplains; interpretation and translation; links to substance abuse treatment; resources for children; outreach to at-risk populations; links to parenting classes; supervised visitation off-site; outreach to teens; and early intervention and prevention efforts.

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<sup>39</sup> Jerry Askew, e-mail message to author, April 14, 2011

The 62 on- and off-site partners of the KFJC work together in a comprehensive approach to achieve the following objectives: ending family violence by providing a “one call to make, one place to go” environment in which to advocate (including legal advocacy) for victims, include survivors in the planning process to ensure services are victim-centered, hold offenders accountable through criminal justice efforts, strengthen direct legal services to victims by making a broad range of civil legal assistance easily available, and increase awareness of KFJC’s available resources through a multi-media campaign.

To achieve these objectives, KFJC has completed tasks and implemented activities such as:

- Intake/admission protocol
- Chaplain program
- Unified case management system
- Volunteer component
- One-on-one advocacy, case management and mentoring
- Safety planning with domestic violence victims
- Legal assistance and representation
- Law enforcement services and training
- Transportation, food and childcare, and children’s activities available for victims
- Off-site supervised visitation
- Counseling for victims
- Translation services
- Information-sharing
- Referrals to off-site partners
- Sexual assault, mental health, substance abuse and parenting education (off-site)
- Outreach, dating violence and other prevention services
- Training provided to off-site partners and community

Offender services are not provided on KFJC property. Enhanced security is part of the facility design, with such features as secure foyer entry and victim service floors with bulletproof glass, panic buttons on the phones, security cameras, and electronic card or keypad entrances. Other strategies include the use of Efforts to Outcomes Software through the National Family Justice Center Alliance with security protocols in place.

#### Community-defined Solutions 2006

In 2006, the City of Knoxville applied for and received another grant from the Office on Violence against Women – the Community-Defined Solutions (CDS) to Violence against Women Program. The CDS grant program is designed to encourage state, local, and tribal governments and courts to treat sexual assault, domestic violence, dating



violence, and stalking as serious violations of criminal law requiring the coordinated involvement of the entire criminal justice system. This grant program challenges the entire community to listen, communicate, identify problems, and share ideas that will result in new responses to ensure victim safety and offender accountability.<sup>40</sup>

Knoxville proposed to: implement mandatory or pro-arrest programs and policies in law enforcement agencies; develop policies, educational programs, and training in law enforcement agencies to improve case tracking of domestic violence and dating violence; centralize and coordinate police enforcement, prosecution, or judicial responsibility of domestic violence cases in groups or units; coordinate computer tracking systems to ensure communications between police, prosecutors, parole and probations officers, and both criminal and family courts; and educate judges in criminal and civil courts about domestic violence and improve judicial handling of such cases.

Knoxville's goal is to create a coordinated community response to enhance victim safety and offender accountability. To meet that goal, Knoxville established the following objectives: a master plan for a coordinated community response for domestic violence policy and procedure implementation or advancement; improved tracking of domestic violence cases in Knox County; training to enhance collaboration between all responsible parties of the judicial system; and state-of-the-art training and assistance to Knox County.

To achieve those objectives, Knoxville has completed or will complete the following tasks, and has implemented or will implement the following activities:

- The City of Knoxville sub-contracts with the Knoxville YWCA to provide three victim advocates to work in partnership with the domestic violence investigators of the Knoxville Police Department. The advocates and the investigators are housed at KFJC to assist the victims of domestic violence.
- The KFJC Program Manager oversees the operations, coordinates the services, recruits/trains/supervises the volunteers, and manages any grievances for the KFJC.

The City of Knoxville is the recipient of the CDS grant and the Knoxville Police Department administers the grant. Partners in this grant, and their roles and responsibilities under this grant, are:

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<sup>40</sup> *OVW Fiscal Year 2010 The Community-Defined Solutions to Violence Against Women Program (formerly the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program)*, The Office on Violence Against Women, page 3, accessed November 22, 2010, <http://www.ovw.usdoj.gov/docs/fy2010-comm-defined-solutions.pdf>.

#### The KFJC:

- Provides the Program Manager for the partnership;
- Provides office space for the Program Manager, and the YWCA advocates;
- Manages day-to-day activities associated with the CDS grant; and
- Coordinates data-tracking with all partners and provides technical on-site assistance.

#### The Community Coalition on Family Violence (CCFV):

- Works with the over 200 individual and agency members to improve the services, resources, and referral process for victims of family violence; and
- Provides the community and victims with a 24-hour helpline telephone service for information and referral to be relocated to the KFJC.

#### The YWCA:

- Serves as the sub-contractor to fund three full-time advocates;
- Assists victims with navigating the court system, including filing orders of protection and criminal warrants, negotiation of orders of protection and compliance reviews for Knox County Fourth Circuit Court, referrals for family and victim's needs, housing referrals, and safety planning;
- Offers victims the opportunity for free assessments by University of Tennessee Nursing students through a series of structured, validated, and reliable instruments;
- Provides court advocacy for victims of domestic violence;
- Assists domestic violence victims to apply for Crime Victims' Compensation Fund;
- Offers a free weekly support group to victims; and
- Offers referrals to their outreach advocacy to Spanish-speaking populations.

#### Child & Family Tennessee:

- Staffs the CCFV's 24-hour information helpline providing appropriate referrals and information to victims;
- Offers referrals to a full array of domestic violence services through The Family Crisis Center, including court advocacy, emergency shelter, safety screening, assessment and planning, free weekly support groups for adult victims and child witnesses of domestic violence; and help in applying for Victims' Compensation Fund; and
- Offers referrals to a continuum of services for victims including substance abuse treatment, counseling, and shelter.

The Knox County Sheriff's Office:

- Participates in the enforcement, apprehension, and prosecution of domestic violence offenders while collaborating with other law enforcement agencies and prosecutors; and
- Targets offenders of domestic violence and works to hold them accountable for their crime(s).

Knox County District Attorney's Office:

- Refers to and works cooperatively with other community partners, particularly victim service organizations, to ensure the safety of domestic violence victims;
- Determines the criminal history of defendants through the use of local, state, and national criminal history databases;
- Reviews warrants, insuring legal sufficiency and the inclusion of all necessary witnesses;
- Gathers reports and other information that will be needed to prepare cases;
- Determines if grounds exist to support federal charges;
- Disseminates information to local, state, and federal law enforcement as needed to support investigations and prosecution of domestic violence related charges;
- Assists domestic violence victims in applying for the Crime Victims' Compensation Fund;
- Reviews the status of probationers in order to advise the Knox County Probation liaison that the offender is in possible violation;
- Holds domestic violence offenders accountable through work with law enforcement, Immigration Customs Enforcement, probation and parole and other agencies concerned with victim safety;
- Serves as a resource and reporting agent for advocates and other partners;
- Focuses additional supervision attention on offenders with the highest risks to re-offend and who pose the greatest risk to their victims;
- Participates in an interagency staffing process to directly assist offenders' reintegration into the community to decrease the likelihood of re-offending against the victim;
- Networks with participating agencies for referrals and follow-up; and
- Offers training designed to enhance cooperative working relationships and a balanced approach toward crime prevention, intervention and control with KFJC staff.

## Legal Aid of East Tennessee (LAET):

- Assists victims of domestic violence in obtaining orders of protection; to enforce orders of protection through contempt proceedings; to obtain divorces, visitation orders, support orders and appropriate property settlements; to obtain crime victims' compensation and other appropriate services as needed;
- Provides training to advocates and other domestic violence professionals on legal issues concerning domestic violence;
- Provides information and resources on the LAET website [www.laet.org](http://www.laet.org) about the KFJC and includes links to other appropriate sites;
- Works with and refers victims to the advocates of other partners that will ensure victim safety and appropriate services; and
- Develops pro bono attorney resources to assist victims.

## Community-Defined Solutions 2008

On May 1, 2006, the law enforcement agencies and the service providers co-located at the KFJC opened their doors to serve domestic violence victims in the Knoxville community.

With the same scope and goal as 2006, the City of Knoxville, again in 2008 applied for and received another Community-Defined Solutions (CDS) grant, managed by the Knoxville Police Department. To continue working toward that same goal of coordination, Knoxville has completed or will complete the following tasks:

The CDS grant will provide funding to continue to improve services for victims in Knoxville/Knox County. The City of Knoxville currently has a sub-contract with the Knoxville YWCA to provide three victim advocates to work in partnership with the domestic violence investigators of the Knoxville Police Department. The advocates and the investigators are housed at the KFJC to assist the victims of domestic violence. The victims feel less apprehension at the KFJC rather than a police department environment and will hopefully request assistance before the cycle of violence escalates to further injuries or death. Without the continuation funding, the Knoxville community would not have the victim advocacy component available to work side-by-side with law enforcement at the KFJC.

Further, the KFJC will build capacity for intake screening and assessment. Currently, The KFJC has a part-time intake coordinator that is on-site Mondays and Wednesdays, which are the busiest days at the KFJC. The CDS grant will provide a full-time intake specialist. The additional intake coordinator will allow the KFJC to implement the following procedure every day the KFJC is open, rather than just two days a week. On entering the KFJC, the victim enters the "living room," a comfortable large room with an adjoining children's play area that serves as a reception area. She/he is greeted by KFJC volunteers who work to ensure each family arriving is welcomed, encouraged, and

comfortably arranged. The volunteer provides basic information about the KFJC, gives individuals a short form to collect basic demographic information, and ensures each individual sees the intake coordinator. The intake coordinator gathers additional demographic information, and determines and documents why the victim came to the KFJC and what she/he is seeking. The intake coordinator also asks established questions and converses with the client on needs sectors such as shelter, housing, food, counseling, education, and spirituality. This provides the intake coordinator with a brief snapshot of the individual's current living situation, strengths and family needs, and the supports and resource assets available to her/him in the community. Then the intake coordinator will complete a holistic assessment and safety plan, while providing individualized support and guidance through the processes. The screening, assessment and safety plan process takes approximately 20 to 30 minutes, depending on the complexity of the situation and the extent of the service need(s).

Since the KFJC opened in May 2006, it has often been difficult to provide services to the Limited English Proficient (LEP) domestic violence victims. The KFJC has contracted with Language Line, and two on-site partners have employees that speak Spanish and one that speaks Swedish. The current availability of staff and the limitations of Language Line make it difficult to ensure LEP victims understand the services or the process. Therefore, the City of Knoxville will bid for a contract with an interpreter and a translator to improve communication and understanding between the service providers and LEP victims. In addition, signage will be added at the KFJC and the Knoxville Police Department to direct the LEP victims to the needed services. All client information will be translated into Spanish to ensure the LEP victims understand their rights and the services that can be provided.

In 1996, the Knoxville/Knox County community conducted a Domestic Violence Safety Audit. This was one of the first audits conducted by Praxis. Several of the agencies that are currently partners of the KFJC did not participate in the audit in 1996. However, the original audit started a coordinated community response in our community that has resulted in changes in operations and procedures to better service victims of domestic violence. The opening of the KFJC with the collaboration of 62 partners is an indirect result of the audit conducted over ten years ago. Therefore, an anniversary audit would help the community determine if a better job is being done today than ten years ago and what gaps exist in the current system. This second audit was completed in 2010 and is the subject of this report.

The City of Knoxville is the recipient of the CDS grant and the Knoxville Police Department administers the grant. Partners in this grant, and their roles and responsibilities under this grant in addition to those from 2006, are:

The KFJC:

- Provides office space for a Program Manager, a contracted full-time Intake Coordinator, and 3 contracted full-time YWCA advocates;
- Manages day-to-day activities associated with the contract over full-time Intake Coordinator;
- Coordinates the Safety Audit with all partners; and
- Coordinates and manages translation and interpretation.

Child and Family TN:

- Serves as the sub-contractor to fund one full-time intake advocate;
- Provides holistic screening that is victim-centered including as needed: intake interview, danger assessment, safety planning, and referral to on-site and off-site partners while providing the exit assessment for when the visit is completed;

The CCFV:

- Participates on the Safety Audit team through the process of implementation of recommendations stemming from the audit;

The YWCA:

- Participates on the Safety Audit team through the process of implementation of recommendations stemming from the audit;

The City of Knoxville:

- Serves as the primary recipient of the CDS grant;
- Provides project oversight through the Knoxville Police Department;
- Coordinates collaborative efforts between city departments; and
- Dedicates staff and resources in other necessary and appropriate ways.

Knox County:

- Coordinates collaborative efforts between county departments; and
- Dedicates staff and resources in other necessary/appropriate ways.

The Knox County District Attorney's Office:

- Participates on the Safety Audit team through the process of implementation of recommendations stemming from the audit.

Knox County Sheriff's Office:

- Participates on the Safety Audit team through the process of implementation of recommendations stemming from the audit.

Knoxville Police Department:

- Contracts for a full-time In-take Coordinator for the KFJC and with the YWCA for the three advocates to work with the Knoxville Police Department's Domestic Violence Unit;
- Manages the day-to-day activities associated with the CDS grant;
- Serves as the administrating agency for the City of Knoxville; and
- Participates on the Safety Audit team through the process of implementation of recommendations stemming from the audit.

Legal Aid of East Tennessee (LAET):

- Participates on the Safety Audit team through the process of implementation of recommendations stemming from the audit.

## WHAT ARE INSTITUTIONAL SAFETY AND ACCOUNTABILITY AUDITS?

Institutional ethnography is an investigation that uncovers how everyday practices in case management procedures occur across a set of agencies. In an ethnographic study, we are able to examine how certain practices become normalized within a discipline or field. In such an investigation, we are not looking at how individual practitioners do their work. Instead, we want to know how an institution is able to achieve a fairly consistent response from practitioners – regardless of their personal attitudes toward a problem. In an ethnographic study, we can find the organizational processes that shape activities, and how events are linked to larger systems of governing. Analysts can then identify a change agenda at local, state, and even national levels (Grahame & Grahame, 2000). Institutional ethnography recognizes the authority of the experienter to inform the ethnographer's ignorance. It takes up women's standpoints not as a given and finalized form of knowledge, but as a ground in experience from which discoveries are to be made. (Pence & Lizdas, 1998).

Currently, a variety of federal agencies use ethnographic techniques to understand complex problems that hinge on the beliefs and behaviors of individuals and communities, and the program activities designed to address them. The Department of Commerce, Department of Labor, Department of Defense, Department of Health and Human Services, the Department of Housing and Urban Development, and many others, have used ethnographic techniques to examine and improve management actions and policies affecting populations, including members of fishing communities, drug users, youths of military enrollment age, local populations at risk of sexually transmitted diseases, nurses, populations lacking access to home mortgages, and Early Head Start children and families. The application of institutional ethnography in government as a mechanism to inform decisions about programs is broad and diverse (Government Accounting Office, 2003).

Ethnographic work in the area of domestic violence was initiated by Ellen Pence, who studied police and judicial processing of violence against women in her Ph.D. dissertation entitled, Safety for Battered Women in a Textually Mediated Legal System. Dr. Pence's work in domestic violence spans more than two decades, during the course of which she worked closely with a variety of agencies to understand and improve their processing of domestic violence cases and to positively impact victim safety. From her work and studies she created a process called "Institutional Safety and Accountability Audits" as a way for communities to evaluate their response to domestic violence by examining how the work routines of criminal justice practitioners accounted for the safety of domestic violence victims and the accountability of domestic violence offenders.



## **THE NEED TO CONDUCT SAFETY & ACCOUNTABILITY AUDIT**

(Pence & Lizdas, 1998)

When a woman who has been beaten in her home dials 911 for help, she activates a complex institutional apparatus responsible for public safety. Within minutes, her call for help is translated into something that makes her experience something that institutions can act upon. Her experience has become a domestic violence case. Over the next 24 hours, up to a dozen individuals will act on her case. They hail from many agencies and levels of government. Over the next year, the number of agencies and people who work with her case – and therefore her safety – will more than double. 911 operators, dispatchers, patrol officers, jailers, court clerks, emergency room doctors and nurses, detectives, prosecuting attorneys, law enforcement victim advocates, prosecutor victim advocates, child protection workers, civil court judges, criminal court judges, family court judges, guardians ad litem, family court counselors, child and family investigators, therapists, social workers, probation officers, community-based advocates, children's advocates, offender treatment provider advocates, and support group facilitators may all become involved in a chain of events activated by her original call for help.

In the past 20 years, every state and hundreds of communities have initiated criminal and civil justice reforms in order to improve victim safety and offender accountability in that chain of events. Laws have been changed, policies written, procedures revised, and training conducted. Domestic violence coordinating councils, task forces, and response teams have been formed. Are communities now safer for domestic violence victims and their children? Are offenders held accountable for their violence and coercion? Have our good intentions and reforms helped or hurt?

The Audit helps answer these questions from the standpoint of battered women and their children. While the Audit Team is compelled to ask questions from the standpoint of women who are battered, the team itself is made up of practitioners in the system and domestic violence advocates and experts. The Audit is a way to look at how a woman's experience is retained or disappears in the handling of the case and whether or not safety and accountability are incorporated into daily routines and practices of workers on the case. Because the Audit Team looks at actual experiences and job functions of those who intervene in domestic violence cases, workers in the system are engaged in a practical, useful change process.

The Audit is not a review of individual performance or effectiveness, but a close look at how workers are institutionally coordinated, both administratively and conceptually, to think about and act on cases. The Audit Team uncovers practices within and between systems that compromise safety. It examines each processing point in the management of cases through interviews, observations, focus groups, review of case files and an analysis of institutional directives, forms and rules that govern a worker's response.

The Audit Team's analysis provides direction on specific changes in technology and resources, rules and regulations, administrative procedures, system linkages, and training. The analysis also tries to account for how, in attending to the safety of the victim, institutions account for diverse social status factors that affect safety and accountability – e.g., race, class, addiction, literacy, employment, immigration status, language, and sexual orientation.

### **KNOX COUNTY'S INSTITUTIONAL SAFETY AND ACCOUNTABILITY AUDIT PROCESS**

Each participating agency agreed to sign a Memorandum of Understanding (MOU), detailing the long-standing commitment and expectations of the agency and their representatives. Once the MOU was signed by all parties, practitioners were selected - mostly those working on the front lines in processing domestic abuse cases – to comprise the Audit Team named in the Acknowledgement section of this report. The team held its first meeting in February 2009 and continued to meet throughout the process including the period of time involved in writing this report. The focus of the first few meetings was to familiarize the team with the Audit process, get to know fellow team members, discuss the Audit question, and assist in creating a site book. The site book included state laws relevant to domestic abuse crime, procedures, case files, Tennessee Board of Probation & Parole policies, Knoxville Police Department domestic violence general orders, Knox County Sheriff's Office domestic violence general orders, and Praxis Audit Process worksheets.

Team members agreed on the confidentiality of all Audit materials and all issues raised during interviews, observations, meetings, trainings, focus groups and file reviews.

Each year, PRAXIS International provides a one-week institute on coordinating an Audit. In April 2009, Rachael Searcy, audit team coordinator, participated in this institute. In August 2009, the team invited Rhonda Martinson to provide a two-day training to the team on what an Audit is and how to conduct one. Rhonda is an attorney and safety audit consultant with the Battered Women's Justice Project, the technical assistance provider designated by the Office on Violence against Women to support recipients of CDS grants.

During this training, an Audit question was developed: "How are domestic violence offenders held accountable in the Knoxville/Knox County justice system interventions?"

The Audit Team then began entering the data collection phase of the Audit process, which included interviews, observations, focus groups, and analyzing domestic abuse case files. In August 2009, team members mapped the probation, pre-trial release and warrant screening processes. They conducted 21 interviews, 11 observations and 6 focus groups of individuals involved in domestic violence. The interviews and focus groups included: battered women, process servers, victim/witness staff, prosecutors, investigators/detectives, support staff, probation & parole officers and supervisors,

court clerks, law enforcement patrol officers and supervisors, correctional facility staff, batterer's intervention providers, prosecution supervisors, judicial representatives, and dispatchers. Team members observed the following agencies: Fourth Circuit Court (including the compliance review process), Sessions Court, Felony Court, Knoxville Police Department Patrol, Knox County Sheriff's Office Patrol, E-911 Call Center, Batterer's Intervention Programs (Integrus, Child and Family TN, and Complete Counseling), and toured the Knox County Detention Facility. The team also analyzed forms and form letters commonly used by the Tennessee Board of Probation & Parole, Knoxville Police Department and Knox County Sheriff's Office, Knox County Attorney District Attorney's Office, E-911 Call Center, Knox County Sheriff's Office Detention Facility, Fourth Circuit Court Clerk's Office, and Knox County Sheriff's Office Process Servers.

Twenty-eight (28) prosecution files were pulled for review. Nine of these were of family or roommate violence and were not reviewed further; 19 were of intimate partner violence and formed the basis of the team's file review. This is mentioned here to explain the reference throughout the report to the 19 files, and to the fact that some files' case numbers are higher than 19 (e.g., Case Number 21, etc.). The files were of different types of cases to ensure good coverage of the issue: denial of prosecution, failure to prosecute, judicial diversion, cross warrants, deferred cases, pleas, same gender abuse, state dismissals and felonies.

Prior to the analysis, each team member was assigned several case files to read, after which there was group discussion about any problematic features of communications between the district attorney's office and domestic abuse victims that did or could have an impact on victim safety and offender accountability. During her decades of work with agencies to understand and improve the processing of domestic abuse cases, Ellen Pence identified 12 reoccurring institutional features that are present in all aspects of managing domestic abuse cases.<sup>41</sup> While these institutional features cannot be eliminated from our public agencies, their harmful effects can be greatly reduced as community members pair up with progressives within these institutions to investigate how they are impacting public safety and how to minimize harmful effects.

- Institutions **fragment** people's lives, which are complex, into cases that rarely deal holistically with a problem. The workers who deal with the 'case' are highly specialized and do not understand the full context of the life of the person represented by the case file.
- Workers in institutions are highly influenced by **texts** in the form of laws, rules, guidelines, and forms that define how they think about a case.
- Workers in institutions rely on the use of **categories**, which lump dissimilar events together and oversimplify complex situations.

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<sup>41</sup> Pence, E., 2009, *(In) Visible Workings: A Change Agent's Guide to Closing the Gap between What People Need and What Legal and Human Service Institutions Do*. St. Paul, MN: Praxis International.

- Institutions typically operate on a **time** frame that fits their needs, even when it poses a risk to individuals whose cases are being processed.
- Institutions **prioritize their intervention goals and functions over the particular needs of the people** whose lives they are managing. Thus, success is seen as properly carrying out tasks, as opposed to whether or not a person is helped.
- Institutions tend to treat **people as data points** rather than having ways to enter into a dialogue with those whose cases they are managing.
- **Conceptual practices** organize how workers think and act.
- The framework created thus generates a fictitious **universal person**, which does not recognize the difference in peoples' ethnic, social, economic, and gendered positions in society.
- Institutional **limitations and failures, due to things such as limited resources, are masked**; failures are attributed to aspects of a case or people in the case, not to the institution.
- Institutions have **weak systems of accountability** to the people whose lives they 'manage.'
- **Coercion** is used to gain compliance, covertly and sometimes overtly.
- That which is **social is individualized**. Social problems are treated as individual pathologies, and problems that are linked (poverty, illiteracy, homelessness, etc) are treated as separate phenomenon experienced by individuals rather than groups.

The Audit Team then “followed the Audit trails<sup>42</sup>” of what the explanations for these features might be as they appear within Knoxville’s Audit question of offender accountability, and thus what the recommendations might be to address them. During her work, Ellen Pence identified eight methods that institutions commonly employ to standardize workers’ actions:

- Mission, Purpose and Function
  - Mission concerns the overall goals of the organization
  - Purpose refers to specific processes within the mission
  - Function is the function of a practitioner in a specific context
- Concepts and Theories
  - Includes theories, assumptions and philosophical frameworks
  - Conceptual practices are ingrained in language, assessment tools, and policies

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<sup>42</sup> Pence, E. & Sadusky, J., (2007), *The Praxis Safety and Accountability Audit Toolkit*, pp. 33-41. St. Paul, MN: Praxis International.

- Rules and Regulations
  - Laws, court rulings, and legislative mandates
  - Other governmental requirements
  - Policies and directives
- Administrative Practices
  - Methods that an institution uses to standardize how practitioners carry out its policies, laws, regulations and mandates
  - Use of texts, forms, and report writing formats
- Linkages
  - Ways that institutions link practitioners to other workers in the intervention process
  - Ways that institutions are linked to the people whose cases they process
  - How information is collected and shared
  - How problems get resolved
- Resources
  - Funding
  - Resources for victims - shelters, transitional housing, advocacy, legal representation, child care, etc.
  - Resources for practitioners – staffing, equipment, adequate time, work space, etc.
- Education and training
  - Ways that disciplines organize workers to understand their jobs
  - Ways that agencies train their workers to think about cases
  - Exposure to concepts and theories
  - Ongoing skill-building that enables workers to intervene with diverse populations
- Accountability
  - Holding offenders accountable for the harm they have done to victims
  - Holding practitioners accountable to the safety and well-being of victims
  - Holding practitioners accountable to the due process of offenders
  - Holding practitioners accountable to other interveners in the system
  - Holding agencies accountable to other agencies

In following these trails, the Audit Team had discussions about their impact on victims, whether victim safety and offender accountability was centralized, and whether something contributed to or compromised victim safety and offender accountability. The consultant, Rhonda Martinson, facilitated these discussions; Rhonda and Audit Coordinator, Rachael Searcy, took notes.

After the data collection phase, team members met to discuss the Audit findings, recommend changes in policy, procedure and training, and strategize on how best to implement the recommended changes. The consultant, Rhonda Martinson, met with the Audit Team by video conference in March and October 2010 to debrief these findings and recommendations with the team. The writing of the final report began at the end of 2010.

## HOW ARE DV OFFENDERS HELD ACCOUNTABLE IN KNOXVILLE AND KNOX COUNTY JUSTICE SYSTEM INTERVENTIONS?

### POINT OF DV OFFENDER ACCOUNTABILITY – 911

#### *Gaps or Potential Gaps in DV Offender Accountability Noted by Audit Team:*

- *None articulated.*

When an audit team writes its final report, the report typically takes the form of where gaps or potential gaps in victim safety or offender accountability were located. Even though this Audit Team articulated no gaps at Knox County 911, the Team requested a report section for 911 be written anyway to ensure that data it collected about 911, which is relevant to other justice system partners, is captured; that 911 is included in any multi-disciplinary recommendations made for other justice system partners; and that other justice system partners using this report would be aware of the strengths, resources, assets and abilities possessed by 911 relevant to planning efforts to improve offender accountability.

Audit Team members who observed and interviewed 911 staff reported that call processors asked callers their address, name, phone and if there are any injuries. In relation to the offender accountability focus of this Audit, call processors also asked callers who is on-site, if the suspect is still there, and if he/she used or has access to any weapons. The answers to these questions help responding officers more quickly identify on-scene suspects, more effectively search for suspects who have fled the scene, and better assess suspect dangerousness while en route to a scene where the call processor has determined the suspect has access to a weapon.

When asked by Audit Team members about whether domestic violence suspects call 911, some call processors indicated suspects sometimes try to call and cancel 911 calls made by their victims, but officers still respond.

The officer being dispatched by the call processor is getting this information simultaneously in the CAD (computer-aided dispatch), which insures that if verbal information is not heard clearly or is forgotten, or if additional call processors and officers become involved in the call, the verbal information is memorialized so that it can be reviewed by responders or accessed by additional responders. This is particularly important with the advent of technology. The days of most calls coming from landlines are gone. In 2009, as many as 65% of calls coming into Knox County 911 were from

cell phones,<sup>43</sup> which are not linked to an address as landlines are. If the caller hangs up or does not have a good call signal so that he/she is heard clearly, the 911 call processor has no way of knowing where the caller is. Use of the GPS technology within the cell phone can be used to find a caller, but if the caller never initialized this technology when purchasing the phone, or if local terrain and cell tower proximity is less than ideal, GPS technology is not a guarantee that a caller can be located quickly. In the 19 intimate partner files reviewed for this Audit, suspects used cell phones as weapons (Case 6: *"Victim told officers his ex-girlfriend threw a cell phone at him, striking him in the upper left arm."* and Case 23: *"Male told officers his girlfriend called him to his residence and then hit him in the face with a phone."*), prevented victims from calling 911 by not letting them use a cell phone (application for order of protection in Case 28: *"He would not let me leave the house or use the cell phone."*), taking the cell phone from them (Case 27: *"Victim told officers when she called 911, he knocked the phone out of her hands, causing it to hit the floor and it broke."*) or disabling a cell phone (application for order of protection in Case 24: *"He would also grab my phone and disconnect the battery from it. He did that several times to prevent me from calling 911."*).

Additionally, the faltering economy has encouraged many people to look for cheaper communication, such as VOIP (Voice Over Internet Provider) that may have limited access to 911<sup>44</sup> or prepaid cell phones that have a more transitory or disposable quality (Case 3: The Police Department Supplemental indicates *"8/3/09. The number is a Cricket phone and not in service. 8/6/09. I called the number again and a male advised he did not have that phone."*).

Finally, many people use cell phones not just to call but to text, tweet, Facebook, and take/transmit photos and video. In the 19 intimate partner files reviewed for this Audit, suspects used texts to stalk (application for order of protection in Case 11: *"He texts saying he knows who is at the house. I feel like he's stalking me, watching the house."*) and to threaten (application for order of protection in Case 6: *"She has been text messaging me for the past two days. The text messages are threatening. She texts that she's 'going to put me 10 feet under', implying she's going to take my life."*). A victim used her cell phone to collect evidence (team observations/comments about Case 28: *"Only set of photos taken two weeks later. Got best pictures off victim's cell phone."*).

Call takers at 911 centers across the nation are seeing more people trying to text, tweet and Facebook their emergency calls. In May 2010, someone searching Twitter for messages about Nashville's flooding saw people tweeting their pleas for rescue instead of calling 911. In February 2010, teachers at a Knox County school tried to text 911

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<sup>43</sup> "Annual Report," Knox County 911, accessed December 10, 2010, <http://knox911.org/report.htm>.

<sup>44</sup> "FCC Rules on VOIP," Knox County 911, accessed December 20, 2010, <http://knox911.org/index.htm>.



when their principal and assistant principal were shot.<sup>45</sup> In addition to calls about violence in progress, Knox County 911 also gets calls about violations of orders of protection and stand-by calls, which are calls from domestic violence victims or order of protection petitioners for an officer to “stand by” while personal property is retrieved in the presence of an alleged abuser.

For example, in two of the 19 intimate partner violence files reviewed for this Audit, an order of protection included an instruction that property be made available to the respondent to pick up:

- Case 11: “ . . . respondent entitled to his tools and personal property located at marital home and parties shall reach agreement as to the date respondent shall be entitled to pick this property up . . . . ”
- Case 28: “ . . . that the respondent pick up his personal property, including a Sony TV, from the residence where parties formerly lived . . . . ”

According to call processors observed and interviewed by Audit Team members, when domestic violence victims or order of protection petitioners call 911 to arrange a stand-by, call processors ask about orders of protection or any other court documents, the relationship between the parties, weapons and threats made in the past. Call processors also arrange with callers to meet responding officers at a safe location.

Domestic violence calls are prioritized at three levels, based on the presence of the suspect: Priority 3 is the highest (suspect present), Priority 2 is next highest (suspect has left), and Priority 1 is lowest (stand-by).

However, even if a DV call comes in on a non-emergency line, call processors ask about the violence, ask if the caller is in danger, and will ask yes or no questions if it is not clear if the caller is in the presence of the suspect or otherwise unsafe to talk freely.

A supervisor who attended the Audit Team’s initial training pointed out that 911 call processors and responding officers do not assume DV suspects or order of protection respondents are not dangerous just because a call comes in as a stand-by request. She played part of a 911 recording of a stand-by request. There was no call history (calls are monitored by address, not individuals), no criminal history for the parties and no application for an order of protection. The caller is a woman who sounds older (perhaps in her 40’s), and who speaks calmly and politely.

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<sup>45</sup> Brian Haas, “Tennessee 911 Upgrade to Allow Texts, Photos, Video,” *The Tennessean*, September 10, 2010, accessed December 20, 2010, <http://www.wbir.com/news/local/story.aspx?storyid=133662&provider=rss>.

Call Processor: *Communications.*

Caller: *Yes, I need to see an officer.*

Call Processor: *Where?*

Caller: *Uh, I'm at the, uh, Flying J, uh, Truck Park on Watt. Watt Road.*

Call Processor: *What's your problem there?*

Caller: *I need to go to my home and get some personal belongings. And I called earlier and they said to get, you know, within a couple miles of home and call.*

Call Processor: *Ok, what's the address of home?*

Caller: *It's [redacted].*

Call Processor: *Ok. And what's your name?*

Caller: *[redacted]*

Call Processor: *Are you going to be in a car or –*

Caller: *Uh, yes, I'll - parked out front in a car.*

Call Processor: *And what kind of car?*

Caller: *It's a Pontiac, uh, Bonneville – a gray one.*

Call Processor: *Do you suspect trouble at home or -*

Caller: *Well, I've been – I've been given an ultimatum to be there before 5:30 or there won't be a home for me to come - come to. He's threatened to destroy everything. And I don't –*

Call Processor: *Is this a husband?*

Caller: *Yes, it is. And, uh, so, I don't want to go down there without an escort. I want to get some clothing. I don't have any clothes or anything with me.*

Call Processor: *Ok. Is he known to be violent?*

Caller: *Uh, yes he is at times and uh, I don't know what his reaction will be. That's why I'm afraid to go alone.*

Call Processor: *Ok, uh, does he have a habit of drinking or carrying a weapon?*

Caller: *He has been drinking the last – just recently. I don't know if he drank anything today or not because I've been at work all day. He does have some guns in the house.*

Call Processor: *Ok, I'll send that to dispatch.*

Caller: *Thank you.*

Call Processor: *Ok, bye-bye.*

Minutes later, the two officers who met the victim and proceeded to her residence were shot, from a distance, by the victim's husband as they pulled up to the driveway. Fortunately, the officers survived and returned to duty. The suspect committed suicide.

The supervisor who played the call pointed out how understanding the dynamics of domestic violence was important in guiding the call processor to probe further with the questions that she did, but equally important was other criminal justice partners' understanding of the dynamics of 911's job. That is, it is important to any policy change, training or evaluation of local responses to domestic violence to consider things like the quickness with which someone has to respond, other calls or cases that may be lining up for attention, the dangerousness of a particular situation, additional actions that may have to be taken as a result, etc. These things are consistent with Audit trails<sup>46</sup> that the Audit Team explored during this audit.

Finally, the supervisor pointed out that with some DV suspects, contact with law enforcement creates another potentially violent dynamic of resisting authority, fleeing or fighting with officers, or "suicide by cop." In the case of the call excerpt, the call processor recognized the request for a stand-by as a red flag and asked probing questions which produced valuable dangerousness information to provide to responding officers. Law enforcement proceeded safely by responding with two officers, meeting the victim a couple miles away from the residence, preceding the victim to the residence, pulling up to the driveway to assess the situation before going onto the property, and giving the dispatcher directions to where they were at. Despite all this, the officers were shot by someone who appeared to have set the stage for a confrontation.

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<sup>46</sup> Supra, note 34.

And so, to keep the inclusion of 911 in mind regarding any multi-disciplinary recommendations made in this report, it will be helpful to readers to also keep in mind the following Audit trails (policy, administrative practices, training and education, resources, and linkages) uncovered by the Audit Team at Knox County 911:

- Already-existing relationship between Knox County 911, Knoxville Police Department and Knox County Sheriff's Office to make policy on how domestic violence calls are handled.
- Already-existing structure for training and updates.
  - Four weeks official training
  - Four weeks on-the-job training
  - Weekly in-service for 911 staff every Friday
- Already-existing medium of communication with citizens about 911 in the form of a website with:
  - Frequently asked questions about using 911
  - Information about common 911 problems, such as false alarms and hang-up calls
  - Amber Alert for missing or kidnapped children
  - Ability to express any comments or complaints about 911 online
  - Ability to request recordings of 911 calls and CAD printouts online
  - Ability to request tours online
- Upcoming technological upgrade.
  - Upcoming state 911 upgrade will allow texts, photos and video<sup>47</sup>

### **Recommendation**

The Audit Team recommends that 911 staff be included in future multi-disciplinary strangulation training<sup>48</sup> recommended in other sections of this report. 911 staff needs to know information about medically serious events experienced by callers to 911. Additionally, 911 staff is in a prime position to hear a caller's voice or breathing difficulties that may be indicative of strangulation.

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<sup>47</sup> Supra, note 38.

<sup>48</sup> *Strangulation: What We Have Learned*, distributed by IMO Productions, released 2010 in DVD format, <http://www.familyjusticecenter.com/Strangulation-Training/strangulation-dvd.html>.

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| <p><b>HOW ARE DV OFFENDERS HELD ACCOUNTABLE<br/>IN KNOXVILLE AND KNOX COUNTY JUSTICE SYSTEM INTERVENTIONS?</b></p> |
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**POINT OF OFFENDER ACCOUNTABILITY – LAW ENFORCEMENT**

**Gaps or Potential Gaps in DV Offender Accountability Noted by Audit Team:**

- *Sometimes responding officers found confusing scenes, intoxicated parties or conflicting statements as barriers to making decisions relevant to who the offender is: probable cause, self-defense, predominant aggressor or mutual combat.*
- *Witness contact information and statements, which can be key in holding domestic violence offenders accountable, often are not documented.*
- *While attempts to strangle and any subsequent neck marks are noted, signs and symptoms of strangulation are not documented for subsequent interveners who may be able to use such documentation to hold the offender more highly accountable.*
- *Offenders sometimes postpone or evade accountability:*
  - *When they are gone upon police arrival.*
  - *For violations of pre-trial release conditions.*
  - *For witness intimidation after making threats to or in front of officers.*
  - *For violations of orders of protection that permit social contact, or in situations where both parties have separate orders against each other.*

**Probable Cause, Self Defense, Predominant Aggressor, Dual Arrest**

Before discussing probable cause determinations in domestic violence cases, it will be helpful to mention probable cause determinations in other crimes commonly reported to law enforcement. Take, for example, the crime of theft. An officer must determine if the crime of taking something without the owner's consent probably happened, and if John Smith is the person who probably took the item without the owner's consent.

But in domestic violence cases, the determination of probable cause is not so clear. In domestic violence cases, two parties are present, usually with conflicting versions of events and sometimes both with injuries. Probable cause decisions then become more complex than in other crimes, because the officer has to determine if one or both parties committed crimes and parse through conflicting statements and physical evidence to do so. If it appears that both parties used violence, officers' analysis cannot stop there. Officers must attempt to determine if one party used self-defense and if not, if one party was the predominant aggressor or if both parties engaged in mutual combat. In four of the 19 intimate partner violence cases reviewed for this Audit, responding officers were unable to come to such a decision on-scene. And one Audit team member pointed out that instances such as these, where responding officers could not come to a decision, can also impact whether a report is filed and if so, what kind of report and when it is filed.

Adding to these difficulties is the fact that parties sometimes consumed alcohol or drugs, which can affect their ability to follow officers' instructions, their communication with officers, or their credibility in general. In the 19 intimate partner violence cases reviewed for this Audit, seven indicate alcohol or drug use by one or both parties.

During interviews, focus groups and ride-alongs with law enforcement officers, officers and supervisors articulated a number of insights that provide a helpful backdrop to the difficult decision-making described above. Law enforcement leaders know how important domestic violence is and give the message that domestic violence is a priority to staff and to the public. For example, the Police Chief, Sheriff and District Attorney General all attend events and meetings, or if they can not, discuss who will be there to represent them. Both the Police Department<sup>49</sup> and Sheriff's Department<sup>50</sup> have written policies on how to respond to, investigate, determine probable cause, and give victims information in domestic violence cases.

However, while new recruits come in with "DV 101," some may not yet have the life knowledge or experience to talk to or understand someone experiencing domestic violence, to recognize domestic violence in instances where a call is not initially labeled "DV." If both parties appear to have used violence, law enforcement agencies have policy on determining the predominant aggressor, and officers know it is important to try to determine the predominant aggressor instead of not making a decision at all, as violence could continue when police leave, and perhaps even result in someone's death. But even experienced officers said the initial response to a domestic violence call can be especially difficult if there are no physical signs of abuse, no evidence of violence or no witness.

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<sup>49</sup> "Domestic Violence Calls for Service," Knoxville Police Department, General Order 2.8, accessed December 7, 2009.

<sup>50</sup> "Response to Domestic Violence Calls," Knox County Sheriff's Office, General Order 4-012, accessed December 7, 2009.

Additionally, with the advent of technology, supervisors and the public expect that an officer's microphone and video must always be recording. As one officer said, "If it didn't happen on tape, it didn't happen. Otherwise, a defendant could later say 'She hit me first.'"

And finally, call volume shortens the time officers have to make decisions. Advocates, participants in victim focus groups, and police officers had the anecdotal sense that either through public education, the opening of the Family Justice Center in 2006 or both, that 911 calls for misdemeanor level domestic violence had increased. For example, an advocate observed that some women in one of the focus groups were repeat victims of violence but had just called police or come to the Family Justice Center for the first time; whereas, in the past, victims seemed not to know that that lower level of violence was criminal and would not call police but just go and apply for an order of protection. Officers in interviews, focus groups, and ride-alongs said that they also see many victims of repeat offenders. And perhaps because of public education, as well as the fact that nearly everyone now carries a cell phone, some officers also had the sense that more domestic violence calls were called in by neighbors, passersby and other third party witnesses.

From the interviews and focus groups, police officers estimated that currently, three to four domestic violence calls a night come in for each squad, and sheriff's deputies estimated 75% of their cases per year are domestic violence cases or have a domestic violence aspect.

Another issue that has an impact on officer decision-making in domestic violence cases is that feedback to officers from different parts of the system about officers' decisions is sometimes late or inconsistent. All domestic violence calls (except standbys conducted by the Police Department) require a report to be written by the responding officer(s). Reports must be approved by a sergeant; there is sometimes a time lag on those with no arrest, such as the four cases mentioned above. Both the Sheriff's Office and the Police Department have domestic violence investigators that can do follow-up. At the Police Department, this occurs after a case manager screens and assigns to the appropriate investigator. But investigators have high case loads (e.g., an investigator at the Police Department estimated he had 80 to 100 domestic violence cases that he had been asked to follow up). Some officers had confusing experiences when contacting a magistrate about a warrant for an arrest of a domestic violence offender. And officers are familiar with the terms "evidence-based" or "victimless" prosecution in domestic violence cases but expressed a sense of mixed messages, as some cases investigated and documented via this strategy were later dismissed without a reason given or with the only reason given that the victim did not want to go forward.

But whatever the probable cause decision or difficulty in making one, officers gave consistent messages about safety and “customer service.” It was clear from interviews with all types of practitioners (not just law enforcement), focus groups of practitioners and of victims, and ride-alongs, that responding officers talked to both parties separately and respectfully, giving each an opportunity to give their version of events. Officers provided safety instructions and safety information, including basic assessments of risk or danger, even if no arrest was made. Officers spent needed time with victims who were unsure of what to do, even referencing departmental ability to check on the victim the next day. Officers gave information on getting an order of protection.

### Witnesses

Witness statements can corroborate victims’ or defendants’ versions of events. This is especially important in domestic violence cases, as domestic abuse victims are often reluctant to participate in prosecuting offenders. If victims recant their initial complaint or do not appear at trial, the availability of witness testimony can make the difference as to whether the case proceeds and the offender is held accountable.

In nine of the 19 intimate partner violence files reviewed for this Audit, either a third party heard or saw what the victim experienced or said, or there is an inference that a third party was present.

In Case 3, a passenger in the car told officers that she and her children and the victim drove to a residence to talk to a friend. In Case 6, the male victim told officers he was at a friend's residence during the incident. Additionally, an order of protection put in place afterward indicates the parties have a child. In Case 8, the suspect was holding a child while he grabbed the victim's throat in an attempt to strangle her. In Case 9, the victim left her residence after being shoved several times by her ex-partner and went to a neighbor's house for help. In Case 13, the victim's sister was present. In Case 15, the victim was lying in bed taking care of her sick child when her husband punched her and dragged her from the bed. In Case 17, the victim and her boyfriend argued about her brother staying with them before he “choked” her and threw a puppy across the room. In Case 11, 18, 19 and 24, the parties are described by officers as having minor children in common. The incident in Case 23 happened in an apartment building. In Case 25, the defendant was talking to her father on the phone at the beginning of the argument with her boyfriend. In Case 26, the victim told officers that her ex-boyfriend entered her apartment and struck her and a witness. In Case 27, the victim and suspect are mother and son who do not live together. This is not an intimate partner relationship, but there is also a history of the father being violent to the mother. He was recently convicted of aggravated assault against her, is still in the home and was present during this incident.



In Case 8, the child witness was 10 months old. In Cases 3, 13 and 26, officers spoke to the witnesses and documented their names, contact information, and what they saw or heard. In the other five cases listed above, there was no documentation of the witnesses' identity, contact information or observations.

Officers in interviews, focus groups, and ride-alongs stated that many domestic violence incidents they respond to were witnessed by children. Audit Team members noticed that many of the files they reviewed indicated or implied children were present with no further information about who they were, their ages, if they were checked to make sure they were all right, or if they were interviewed about the incident. Officers make referrals to the Department of Children's Services but social service workers can take two to four hours to respond to a call.

### Strangulation

The number of states criminalizing intentional impediment of normal breathing or blood circulation via pressure on the throat or neck continues to increase (21 states as of May 27, 2008,<sup>51</sup> and growing). Tennessee does not yet have such a law, although the Sixth District Attorney General, the Knox County Sheriff and the Knoxville Police Chief have joined together the last two legislative sessions to support a statute criminalizing strangulation.

Without such a law, local prosecutors typically attempt to hold such offenders accountable by proving a type of assault. While misdemeanor assaults hold offenders less accountable for strangulation, some subsections of this statute can be easier to prove than a felony assault, which requires proof of serious bodily injury. Seven of the offenders in the 19 intimate partner violence files reviewed for this Audit strangled their victims. All but one of these seven offenders were charged with a misdemeanor. Of the six misdemeanor cases, two were disposed of with pleas to the charge, two were disposed of with diversion agreements and two were dismissed.

The attempt to strangle, and any subsequent neck marks, was noted in those cases. However, the effects of strangulation (such as voice or breathing changes experienced by the victim) that would indicate the seriousness of injury, impediment to breathing or blood flow, were briefly alluded to in a couple protection orders and one police report (Case 19 – "He choked her and punched her left cheek. She blacked out . . .") and not included in the other six reports of strangulation. See, e.g., this breast pocket or bookmark-style reminder, adapted from a specialized form developed by the San Diego City Attorney's Office with Drs. George McClane and Dean Hawley:

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<sup>51</sup> "Strangulation Laws," compiled by the National Center for Prosecution of Child Abuse in 2007 and updated by the Battered Women's Justice Project May 27, 2008, accessed December 23, 2010, [http://www.bwjp.org/files/bwjp/articles/State\\_Strangulation\\_Matrix.pdf](http://www.bwjp.org/files/bwjp/articles/State_Strangulation_Matrix.pdf).

## Documentation Chart for Attempted Strangulation Cases

Use this chart when a victim reports being "choked" or strangled

### Symptoms and/or Internal Injury

| Breathing Changes  | Voice Changes  | Swallowing Changes   | Behavioral Changes   | Other   |
|--|--|--|--|---|
| <input type="checkbox"/> Difficulty Breathing<br><input type="checkbox"/> Hyperventilation<br><input type="checkbox"/> Unable to breathe<br><input type="checkbox"/> Other | <input type="checkbox"/> Raspy voice<br><input type="checkbox"/> Hoarse voice<br><input type="checkbox"/> Coughing<br><input type="checkbox"/> Unable to speak | <input type="checkbox"/> Trouble swallowing<br><input type="checkbox"/> Painful to swallow<br><input type="checkbox"/> Neck Pain<br><input type="checkbox"/> Nausea<br><input type="checkbox"/> Vomiting | <input type="checkbox"/> Agitation<br><input type="checkbox"/> Amnesia<br><input type="checkbox"/> PTSD<br><input type="checkbox"/> Hallucinations<br><input type="checkbox"/> Combativeness | <input type="checkbox"/> Dizzy<br><input type="checkbox"/> Headaches<br><input type="checkbox"/> Fainted<br><input type="checkbox"/> Urination<br><input type="checkbox"/> Defecation |

Call for medical attention when a victim has been strangled. After-effects of strangulation can be fatal even hours afterward. All strangulation victims should be checked by medical personnel.

While it is common for strangulation victims not to have marks or bruises immediately, no follow-up was documented. Investigators can check for, document, and photograph marks or bruises later on that could be evidence that a victim's air or blood flow was impeded.

Case 8: *" . . . grabbed her throat in an attempt to strangle her. She pulled away, at which time he grabbed her arm. During all this, he was holding their 10 month old child. Officers saw the victim had red marks on her neck and right upper arm . . . "*

Case 15: *" . . . punched her face, causing her to fall into the nightstand. He then grabbed her hair, dragged her to the doorway, smacked her face two times, choked her and grabbed her by both arms, shaking her violently. Then he started calling her names. Officers observed red marks on the victim's right cheek, redness on her head and neck, and a small cut on her lower lip. The victim refused medical treatment . . . "*

Case 17: *" . . . pushed her back down. She was then thrown on the ground and was choked by her boyfriend. She began to scream for help and her boyfriend tried to stuff a sock in her mouth. She was able to break free and flee the residence. She had visible marks on her neck and a busted lip . . . "* The next day, the victim applied for an order of protection and said about the incident: *" . . . shoved me down several times, then choked me to the point of me losing my breath and bruises on my face. He let go and I started to leave. He shoved me down on the ground and sat on me and tried to shove a washcloth in my mouth and choking me. "*

Case 18: *" . . . Male grabbed ex-girlfriend from behind and proceeded to strangle her in a chokehold . . . "*

Case 19: *" . . . grabbed the victim by the hair and dragged her into the bedroom. He threw her onto the bed. He choked her and punched her left cheek. She blacked out, then woke up and fought the defendant off . . . ."*

Case 24: *" . . . fought with her in an attempt to get the phone away from her. He grabbed her by the neck and shoved her into the kitchen sink. She was able to get into the laundry room and lock herself in it to call police. Officers observed that she had an injury to her lip that was bleeding . . . ."* The day after this incident, the victim applied for an order of protection and said *" . . . strangling me several times. He bent me over the kitchen sink while strangling me. This isn't the first time . . . ."*

Case 28: *" . . . became angry with her and strangled her. She attempted to leave the residence. He grabbed her hair and pulled her to the ground. He then stomped on her head and body repeatedly. He forced her into the bedroom and would not let her leave. He threatened her with a knife, telling her if she called the police or tried to leave he would kill her. He put the knife to her head as well as her neck. He pressed the tip of the blade into her chest numerous times . . . ."*

The victim applied for two protection orders in the eight years preceding the incident in Case 28. During the first application in 2000, she said *" . . . began to choke me. He hit me in both breasts and stomach. He stomped my hands and feet. I have bruises both hands and feet, face, legs, back. Have several large knots in top of head. He dislocated my left shoulder. He beat me so bad I lost consciousness. I was taken to Baptist Hospital by ambulance . . . ."*

During the second application in 2002, she said, *" . . . hit me again in the face on the right side and then across my nose and face. Then he choked me. Then he kicked me a couple times in the left thigh. He then dragged me into our room by my hair, then screamed and cussed at me before he dragged me into the bedroom. When he was hitting me, he also hit me in the right arm. On Saturday, he got mad again because I said I was going to take my daughter to Kmart. He started screaming and pushing on me. My daughter came downstairs and at the base of the steps started yelling at him. Then he got madder. Told her she was under his roof and didn't tell him what to do. She told him to stop and leave me alone. I told her to go back upstairs. She said no. He then went back at me. My daughter screamed at him and put up her hand to try to stop him. He then reached out and grabbed her by the throat. She was standing on the steps and her head was against the wall. She is only 11 years old . . . ."*

During interviews and ride-alongs, officers said that they thought they did well documenting the incidence of strangulation, but expressed some frustration in responding to these calls with the lack of a statute and a disproportionately small amount of training on strangulation in a state where substantial injury has to be proved. In the academy, officers have 22 hours on domestic violence but only one hour specific to strangulation.

### "Gone on Arrivals," Pre-trial Release, Orders of Protection

When asked during interviews, focus groups and observations about offender accountability issues, officers themselves identified:

- Delay in holding offenders accountable when offenders are gone on police arrival. In the 19 intimate partner violence cases reviewed for this Audit, one offender was gone upon police arrival, and another was fleeing the scene as officers arrived. Domestic violence suspects who are gone when police arrive are twice as likely to re-offend as those who stay.<sup>52</sup>
- Inability to enforce violations of pre-trial release conditions, as this information is not relayed to officers on the street.
- A lack of charging witness intimidation when threats are made to or in front of officers who could be witnesses to hold the offender accountable for that behavior.
- Difficulty in enforcing violations of orders of protection that permit social contact,<sup>53</sup> or situations where both parties have separate orders against each other. In three of the 19 intimate partner violence cases reviewed for this Audit, parties received orders of protection that permitted social contact. In Case 6, both parties applied for orders against each other, after which the Assistant District Attorney declined to issue charges. Several victims in the victims' focus groups also said orders they had received permitting social contact could not be enforced, and several said their abusers were able to get an order of protection before they could. Some practitioners interviewed said they believed too many citizens had orders of protection, and that the local attitude was "anyone can get one."

### **Recommendations**

*To the extent that any recommendation needs research, initial contact with various practitioners, or other tasks, the Audit Team has expressed willingness to continue as a work group to help implement the recommendations of this report.*

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<sup>52</sup> *Blueprint for Safety* by Praxis International, 2009, p. 119, accessed January 10, 2011, <http://praxisinternational.org/blueprintforsafetyformallpages.aspx>.

<sup>53</sup> "Domestic Violence: Types of Orders," Knox County, accessed December 30, 2010, [http://www.knoxcounty.org/fourthcircuitcourt/types\\_of\\_orders.php](http://www.knoxcounty.org/fourthcircuitcourt/types_of_orders.php).

### Rules and Regulations (Policy) – Probable Cause, Self-defense, Predominant Aggressor, etc.

Audit Team members noted that both the Police Department and Sheriff's Office have policies on how to respond to domestic violence calls, factors in making probable cause and predominant aggressor decisions, and how to document their observations. It appeared that it was not necessary to change policy but rather, to refresh officers on existing policy and provide aids to decision-making in more difficult cases.

### Rules and Regulations (Law) – Strangulation

The Audit Team recommends supporting the Sheriff, Police Chief and District Attorney General in their already-existing efforts to pass legislation elevating the criminal act of strangulation to a felony. This could entail occasionally providing information to them on the difficulty, extra time and extra cost in investigating and documenting strangulation cases without a corresponding statute; or highlighting particular cases that would be illustrative to the public and to legislators of the need for such a statute.

### Administrative Practices

Like the card-style aid to documenting strangulation cases that appears earlier in this section of the report, the Audit Team recommends similar easy-to-use aids for other decision-making or documentation issues in domestic violence cases. These could be printed for personal use, uploaded to a server or website to be viewed via computer, or both. See, for example:

- *St. Louis County Sheriff's Office Domestic Violence Handbook and Training Guide for Patrol Deputies* at <http://files.praxisinternational.org/sheriffhandbook.pdf> (a booklet-size combination of domestic violence policy and brief examples of what to do when encountering particular situations while on patrol).
- Laminated breast pocket cards with bulleted criteria or a decision tree depicted for officers to quickly look at to aid self-defense and predominant aggressor decisions (layouts can be obtained from resources such as the Battered Women's Justice Project).
- Laminated "Supervision of Domestic Violence Reports" sheets for supervisors to check reports against (layouts can be obtained from resources such as the Battered Women's Justice Project).
- Training memo "How a Prosecutor Reads a Domestic Violence Report" at <http://files.praxisinternational.org/Blueprint/BlueprintSupplementBinderCh5.pdf>, pages 8-15.
- Training memo "How a Defense Attorney Reads a Domestic Violence Report" at <http://files.praxisinternational.org/Blueprint/BlueprintSupplementBinderCh5.pdf>, pages 5-7.

### Training – Probable Cause, Self-defense, Predominant Aggressor, Dual Arrest

Once policy refreshers and decision-making aids have been determined, the Audit Team recommends that multi-disciplinary training take place to instill policy and decision-making aids on:

- No arrest
- Probable cause
- Self-defense
- Predominant aggressor
- Dual arrest

Multi-disciplinary training is recommended so that practitioners who contribute to or use law enforcement documentation have an opportunity to hear the training at the same time, work through problems and case scenarios at the same time, hear questions and issues raised by other practitioners, and hear how those questions and issues are answered by supervisors. Interactive, multi-disciplinary training better insures the instillation of a common philosophy on offender accountability, and that everyone is on the same page regarding policy and its application. In addition to law enforcement officers, participants at trainings on the topics above should include magistrates, prosecutors, advocates, and probation officers.

### Training - Strangulation

The Knoxville Family Justice Center already arranged for long-time national trainers on strangulation, Dr. Dean Hawley, Resident in Pathology, Methodist Hospital of Indiana, and Gael Strack, Director of the National Family Justice Center Alliance, to do a multi-disciplinary training on strangulation investigation and prosecution in February 2011. Dr. Hawley and Director Strack used their new training DVD<sup>54</sup> on strangulation, which is set up in short, shift-change style trainings that can be left with training officers to use as refreshers for current officers and training for new officers.

### Training – Victim and Witness Intimidation

The District Attorney General's Office hosted a multi-disciplinary, statewide domestic violence prosecution training<sup>55</sup> in Knoxville in February 2011. The training included a presentation on victim and witness intimidation, after which the Audit Team and leaders of the District Attorney General's Office, the Police Department and Sheriff's Office met the presenter and agreed to participate in a federally funded pilot project to study witness intimidation in 2011 and 2012.

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<sup>54</sup> Supra, note 40.

<sup>55</sup> "Domestic Violence Training," Tennessee District Attorney General, accessed January 11, 2011, <http://www.tndagc.com/dv/>.

### Linkage – Gone-on-arrivals

The Audit Team recommends that law enforcement partner with the District Attorney General's Office to give gone-on-arrival cases high priority when they include: (1) multiple high-risk factors, (2) suspects who are on probation or supervised release, or (3) chronic offenders. As a result, some of these cases should come before magistrates and courts more quickly. In the past, it was possible for a defendant to be released on comparatively low bail in gone-on-arrival cases because the person had essentially been out without bail for some time. In high risk-cases, law enforcement and prosecutors can support requests to magistrates and courts for related warrant and higher bail requests.

See, for example, the FLARE-UP Project in St. Paul, Minnesota, which creates a "Gone-on-Arrival Screening" partnership between a domestic violence investigator and a domestic violence prosecutor. Prior to the project, a GOA case averaged 4 ½ months to make it from law enforcement to the prosecutor's desk and 6 more weeks for the prosecutor to make a charging decision, resulting in an average of 5 months before a GOA offender made his/her first court appearance. After the project, a GOA case averages 1 to 2 days to make it from law enforcement to the prosecutor's desk and 1 to 2 more days for the prosecutor to make a charging decision, resulting in an average of 3 to 4 days before a GOA offender makes his/her first court appearance.<sup>56</sup>

### Linkage - Dismissals

The Audit Team recommends that law enforcement partner with the District Attorney General's Office to create a regular meeting with domestic violence investigators/supervisors and domestic violence prosecutors about dismissed cases that law enforcement would like to revisit in the hopes of holding repeat or dangerous offenders more highly accountable.

See, for example, the monthly meeting between Assistant St. Paul City Attorneys and St. Paul Police domestic violence investigators about dismissed domestic violence cases that investigators have identified as committed by repeat or dangerous offenders. Investigators have an opportunity to provide additional information that may make the case chargeable, ask the prosecutor questions, brainstorm with prosecutors about how to hold the offender accountable, etc.

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<sup>56</sup> Bill, B., Dollerschell, M., Meffert, P., Kisch, M., Whalen, K., "FLARE-UP to Collaboratively End Domestic Violence," slide 14, PowerPoint presentation made July 15, 2010 in Bloomington, Minnesota, at monthly luncheon for suburban police chiefs.

### Linkage – Pretrial Release Conditions

Pretrial release conditions ordered by the Magistrate are being put in writing consistently and given to the custodial officer, as they appear regularly in police reports and in jail records. However, they do not appear to be quickly available to victims or the officer on the street, who may be observing a violation taking place.

While editing this report, the Audit Team recommended that law enforcement partner with the Magistrates and the Detention Facility staff as to database or other electronic means of making bond condition information quickly available to victims and patrol officers. This was accomplished before the publication of this report by working with 911 to provide responding officer with any pre-trial conditions of suspects.



## HOW ARE DV OFFENDERS HELD ACCOUNTABLE IN KNOXVILLE AND KNOX COUNTY JUSTICE SYSTEM INTERVENTIONS?

### POINT OF OFFENDER ACCOUNTABILITY – WARRANT APPLICATION AND SETTING OF BOND

#### **Gaps or Potential Gaps in DV Offender Accountability Noted by Audit Team:**

- *Some differences in amounts of bond and in conditions of release appear to reflect differences in how dangerous the conduct is viewed, and how important history is to assessing danger or likelihood of appearing for court.*
- *Bail bond companies sometimes call victims for money at the request of incarcerated defendants who have been ordered not to have direct or indirect communication with their victims.*
- *While the rule of law is followed in providing written bond condition information to the law enforcement agency who has custody of an offender, there does not appear to be a mechanism to regularly and immediately provide this information to others who may need it (e.g., victims, patrol officers, etc.) to report violations or hold offenders accountable for violations.*
- *Victims who were provided notification of bond conditions sometimes do not know what they mean or whom to contact when violations occur.*

A defendant charged with some misdemeanor crimes may be issued a citation - an order to appear in court. Defendants may also be ordered to appear at the jail for booking and then given a court date. A defendant alleged to have committed domestic violence may not be arrested by citation and instead is arrested on a warrant, which is sworn to and signed by a judicial magistrate. In Knox County, initial application for a criminal warrant or a criminal summons is made to a magistrate,<sup>57</sup> who is located at the City-County Building. In some states, magistrates do not have to be lawyers or have legal training. In Knox County, judicial magistrates are attorneys appointed for a term by county commissioners.

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<sup>57</sup> "Commissioners," by Knox County, accessed December 27, 2010, <http://www.knoxcounty.org/gsjudges/commissioners.php>.

Audit Team members who interviewed and observed law enforcement officers and magistrates noted that magistrates go by the officer's arrest report, not the incident report, to make a decision on a warrant. An officer can come to the magistrate with additional information, but sometimes this is not the same officer who responded to the call, which can affect the magistrate's understanding of the law enforcement's view of the case. The magistrate can then add or subtract charges.

After an arrest, the magistrate conducts an arraignment and can do so by video conference. Magistrates are required by Sec. 40-11-150, Tennessee Codes Annotated, to determine whether a defendant of a domestic violence crime is a threat to the victim or public safety, and how reasonably likely defendant will appear in court. While there are no additional guides (checklists, danger assessments, etc.) besides the statute, Audit Team members who interviewed and observed law enforcement officers and magistrates noted that magistrates looked at defendants' criminal histories and past failures to appear in court to help them make these determinations in domestic violence cases. In the 19 intimate partner violence cases reviewed by the Audit Team, nine defendants had criminal histories. Audit Team members did not know if magistrates utilize other information about the criminal conduct (such as photos that could be uploaded or e-mailed) or about additional history (such as applications for orders of protection).

### Bond

Magistrates interviewed for the Audit said that generally, the lowest bond to insure appearance is issued, which is typical in most jurisdictions. However, several team members were aware of instances where bonds of \$50,000 or more were issued for violations of orders of protection, and noted that in high-bond cases defendants typically ask for a bond reduction hearing, which victims can then attend.

In four of the 19 intimate partner violence cases reviewed by the Audit Team, a warrant was not sought. In the remaining 15 cases, two were felony cases and 13 were misdemeanor cases. In the two felony cases, one had two charges, for which appearance bonds of \$5000 and \$500 were set; and the other had one charge, for which an appearance bond of \$30,000 was set. In the 13 misdemeanor cases, two cases had more than one charge: four charges (domestic assault, two counts of assault and resisting) with \$500 appearance bonds on each; and two charges (domestic assault and resisting) with \$5000 and \$1000 appearance bonds. In the remaining 11 misdemeanor cases, each defendant was charged with domestic assault and issued an appearance bond between \$500 and \$2000, except for one instance where a \$4000 appearance bond was set.

## Bail Bond Companies

In Knox County, defendants may hire a bail bond company to post bond. Generally, these companies charge a fee of 10% to post bond. Therefore, a \$1,000 bond would cost \$100 in fees. Either the defendant or a family member can arrange this over the phone after providing the defendant's full name and date of birth, prior arrest information and amount of bond set by the commissioner.<sup>58</sup> Many bail bond businesses are open 24 hours a day. Two Audit Team members indicated in their work experience, many domestic violence victims report receiving calls from a bail bondsman asking for money. The bail bondsmen were making the calls at the instruction of defendants, who had in turn called the bondsmen from jail. The Team members thought this sounded like a type of violation of a no contact order, and did not think that anyone had ever talked to or trained bail bond companies about this.

## Conditions of Release

Per Sec. 40-11-150, Tennessee Code Annotated, a domestic violence defendant shall not be released within 12 hours of arrest if the magistrate finds that the defendant is a threat to the victim. The magistrate may release the defendant in less than 12 hours if the magistrate determines sufficient time has or will have elapsed for the victim to be protected. In the 19 intimate partner violence files reviewed by the Audit Team, of the 15 where a warrant was sought, the magistrate imposed a 12-hour hold on all 15 defendants.

Per the same statute, after determining whether the defendant is a threat to the victim or public safety, and reasonably likely to appear in court, magistrates are to impose one or more conditions of release or bail on the defendant to protect the victim and ensure the appearance of the defendant at a subsequent court proceeding: (1) an order enjoining the defendant from threatening to commit or committing specified offenses against the alleged victim; (2) an order prohibiting the defendant from harassing, annoying, telephoning, contacting or otherwise communicating with the alleged victim, either directly or indirectly; (3) an order directing the defendant to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be; (4) an order prohibiting the defendant from using or possessing a firearm or other weapon specified by the magistrate; (5) an order prohibiting the defendant from possession or consumption of alcohol or controlled substances; and (6) any other order required to protect the safety of the alleged victim and to ensure the appearance of the defendant in court.

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<sup>58</sup> "Knox County Bail Bonds," Nationwide Bail Bond Service, accessed January 1, 2011, <http://www.bailzoom.com/tennessee-bail-bonds/knox-county/>.

In the 19 intimate partner violence files reviewed by the Audit Team, of the 15 where a warrant was sought, Condition 6, which appears to be a type of catch-all that would allow a magistrate to make an order not already specified in the statute, was not ordered in any case. Conditions 1 through 5 (no assault, no contact, stay away, no weapons, no alcohol/drugs) were ordered in six cases; Conditions 1 through 4 were ordered in two cases; Conditions 1 through 3 were ordered in six cases; and Conditions 1 and 2 were ordered in one case.

Magistrates are required by statute to put any conditions of release they order in writing, and provide that written order to the law enforcement agency that has custody of the offender. All of the files reviewed by the Audit Team had this written information on the conditions of release ordered for each domestic violence offender. However, there did not appear to be a mechanism to regularly and immediately get this information to victims and patrol officers, as some law enforcement and prosecution staff interviewed and observed during this Audit indicated that patrol officers and domestic violence victims often do not know of these conditions. Two victims who participated in focus groups were aware that review hearings exist to monitor the obedience to orders of protection; they wished something similar was in place regarding conditions of release in criminal cases:

- *"The drug/alcohol condition wasn't being followed . . . ."*
- *"No warrant issued when he didn't comply . . . ."*

#### Prosecutions Initiated by Private Citizens

Magistrates may sign criminal warrants and criminal summons for prosecutions initiated by private citizens. This occurred in one of the cases reviewed by the Audit Team; a person initially arrested made a cross-complaint against the initial complainant. Private citizens' criminal warrants and summons are issued Tuesdays, Wednesdays and Thursdays from 2:30 p.m. to 4:30 p.m. in Fourth Sessions Courtroom. Magistrates and Assistant District Attorneys are available to assist citizens, answer questions and to issue civilian prosecutorial arrest warrants if probable cause exists.<sup>59</sup> This occurred in another of the cases reviewed by the Audit Team; in a case where responding officers were unable to make an arrest decision, one of the parties came to speak to a police investigator several days later about getting a warrant.

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<sup>59</sup> "Private Citizens Seeking a Criminal Arrest Warrant," Knox County, accessed December 27, 2010, <http://www.knoxcounty.org/gsjudges/warrants.php>.

## **Recommendations**

*To the extent that any recommendation needs research, initial contact with various practitioners, or other tasks, the Audit Team has expressed willingness to continue as a work group to help implement the recommendations of this report.*

### **Rules/Regulations - Policy**

Regarding the Audit Team's observations related to differences in the amounts of bond, conditions of release, views of dangerousness, and importance of history, as well as the observations related to notification of victims and officers: Audit Team members made recommendations of specific types of training to address these differences. Then in August 2010, the Tennessee Coalition Against Domestic and Sexual Violence published the *Magistrate Benchbook: 2010* with chapters on the very observations the Team made recommendations about:

- Lethality at page 7
- Judicial Role in Domestic Abuse at page 13
- Coordinated Community Response at page 14
- Arrests for Crimes Involving Domestic Abuse at page 46
- Best Practice for Arrests Involving Domestic Abuse at page 49
- Pretrial Release at page 49
- Amount of Bail at page 49
- Conditions at page 50
- Best Practice for Bonds and Conditions of Release at page 51
- Victim is Entitled to Notification at page 51<sup>60</sup>

The Chief Magistrate was a member of the Audit Team, has received and presented some domestic violence training, and is interested in the role of the magistrate in a coordinated community response against domestic violence as well as how the magistrates can help implement any recommendations made in this report. While some policy and practice recommendations in the *Benchbook* are things Knox County magistrates already know, it would help insure consistency to utilize them as a mission statements for local policy and protocol, instead of unnecessarily recreating the wheel.

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<sup>60</sup> Skaggs, K., (2010). *Magistrate Benchbook: 2010*. Nashville, Tennessee: Tennessee Coalition Against Domestic and Sexual Violence. Available at <http://tcadsv.org/media/pdf/legal/Magistrate%20Benchbook%202010.pdf>.

### Administrative Practices

Once any of the above policy statements are accepted, the Audit Team recommends that magistrates consider the use of bench cards and/or specialized forms that may help carry out policy and collect/assess information on history and danger. For example:

- “Pretrial Release Conditions in Domestic Violence Cases” at [http://www.bwjp.org/files/bwjp/articles/Pretrial\\_Release.pdf](http://www.bwjp.org/files/bwjp/articles/Pretrial_Release.pdf), an article that overviews and excerpts practices from different parts of the country
- “Domestic Violence Bond Information Form” produced by Washtenaw County (Michigan) Judicial Oversight Demonstration Initiative (a form that collects/assesses danger on one side and has a place for judge to create/sign a bail order and conditions on the other side)
- “Pretrial Release Danger Determination” produced by St. Louis County, Minnesota (a type of categorization of levels of risk with a corresponding bond and condition recommendation)

### Training – for Criminal Justice Practitioners

The Audit Team recommends multi-disciplinary training on the above policy and administrative practices – “multi-disciplinary” so that all other practitioners involved in providing information on probable cause, dangerousness, bail, and victim notification have an opportunity to hear the training at the same time, work through problems and case scenarios at the same time, hear questions and issues raised by other practitioners, and hear how those questions and issues are answered by supervisors. Interactive, multi-disciplinary training better insures the instillation of a common philosophy of offender accountability, and that everyone is on the same page regarding policy and its application. In addition to magistrates, participants at training on the topics above should include law enforcement officers, victim advocates, prosecutors and judges.

### Training – for Bail Bond Company Staff

The Audit Team recommended meeting further with members of the team who were lawyers (prosecutors and magistrates) to further articulate concerns about bail bond company employees contacting victims on behalf of offenders who have been ordered not to contact them; identifying a “point person” on the team who could contact bail bond companies to explore interest and willingness to participate in a short training (perhaps a luncheon or breakfast) on this issue; and then plan and execute such a training.

### Linkage/Resource

The training for bail bond company employees would need to end with identification of a person, agency, or resource that could be contacted in the future for questions. Because any questions would be about bond or conditions, it appears a magistrate would be the appropriate person to answer such questions; thus it is recommended that the ability and time of a magistrate or magistrates to do such a training be explored.

## HOW ARE DV OFFENDERS HELD ACCOUNTABLE IN KNOXVILLE AND KNOX COUNTY JUSTICE SYSTEM INTERVENTIONS?

### POINT OF OFFENDER ACCOUNTABILITY – JAIL SYSTEM

#### **Gaps or Potential Gaps in DV Offender Accountability Noted by Audit Team:**

- ***None articulated.***

Though the Audit Team articulated no gaps in the Knox County Jail system, the Team requested that a report section for the jail be written. Holding domestic violence offenders accountable – the focus of this Audit – with the imposition of jail is an expectation held by many in Knox County:

- In the battered women's focus group and the battered women's support group observed for this Audit. For example:
  - *"I wish they could be in jail longer."*
- In the focus groups and interviews of justice system practitioners. For example:
  - *"Perps need to serve more jail time."*
  - *"Perps are more concerned about the officers on the street than they are about the court system."*
  - *"It seems like they get chances instead of consequences for failures to comply."*
  - *"I see a lot of repeat offenders. Violence escalates. Nothing happens to repeat abusers. No accountability, no deterrent – why stop?"*
- In the Audit team's review of domestic violence reports and files. For example:
  - *"It appears we don't use jail for sentencing."*

This expectation is expressed in other parts of the country too. In a prosecution audit completed recently in the Midwest, an Audit team member talking about a similar expectation of "more jail" in his county said that crime victims view their reporting of the crime, their preparation for court, and court appearances as a "big deal."

Consequently, they take the length of incarceration of the offender very personally as a statement on how the judge views both the seriousness of the crime generally and how the judge values them and their testimony. For instance, victims state they "don't hear anything else. They only hear prison or no prison, a lot of jail or not a lot of jail, and are disappointed when it's not a lot." The team member said resources will never permit a



"lock 'em up and throw away the key" approach to every offense, and practitioners may have to get better about explaining sentencing, holding offenders accountable for failures during sentencing, and giving better messages about victim impact, sentencing and offender accountability while in court.<sup>61</sup>

This point about resources is a reason why the Knox County Audit Team wished this section written, though the team articulated no offender accountability gaps at the jail. Jail overcrowding is a line that Knox County officials have had to walk carefully since a 1986 lawsuit, which resulted in federal oversight of jail population that continues today. A form letter mailed to domestic violence victims and witnesses from the District Attorney General's Office states "You may be under the impression that the state wants to keep or put the accused in jail. **Persons accused of misdemeanor crimes seldom receive jail time.**"<sup>62</sup> Knox County recently received praise from the federal judiciary for keeping jail overcrowding in check.<sup>63</sup>

Therefore, just as it was important to include a section on 911, even though the Audit Team articulated no offender accountability gaps there, it is also important to include a section on the jail so that data the Team collected about the jail that is relevant to other justice system partners is captured; that the jail is included in any multi-disciplinary recommendations made for other justice system partners; and that other justice system partners using this report would be aware of the strengths, resources (such as the resource of jail space), assets and abilities possessed by the jail relevant to planning efforts to improve offender accountability.

The Knox County Sheriff's Office operates three facilities: the Detention Facility located in East Knox County, the Knox County Jail in downtown Knoxville, and the Work Release Center, also in East Knox County. Audit team members who observed activities at the Detention Facility and did follow-up interviews with Detention Facility staff reported that when domestic violence offenders are booked in, any threats they make are documented. However, in the memory of staff who were observed and interviewed, domestic violence offenders had rarely made public threats about their victims while being booked in. One person thought this may be in part because it is a big, well-laid out facility that implies a more modern or professional atmosphere than what many people's stereotypes of a jail are, and thus may lessen any offender thoughts about "getting away with" making threats or crude remarks about the victim. Also, domestic

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<sup>61</sup> Martinson, R. (2010). *Milwaukee County Institutional Safety & Accountability Audit Report: How Does the Milwaukee County District Attorney's Office Communications with Victims Help or Hinder Victim Safety and Offender Accountability*, p. 78, draft report awaiting publication. Milwaukee, WI: Milwaukee District Attorney's Office, and the Sojourner Family Peace House.

<sup>62</sup> Form letter to domestic violence victims, 6<sup>th</sup> District Attorney General's Office, accessed January, 2010.

<sup>63</sup> Jim Balloch, "Tenn. County Commended for Curbing Overcrowding," *News Sentinel*, August 13, 2010, accessed December 25, 2010, <http://www.correctionsone.com/jail-management/articles/2362801-Tenn-county-commended-for-curbing-overcrowding/>.

violence offenders are coming in with bond conditions already imposed by the magistrate, so they have been warned just before book-in they are not to contact, or threaten to contact, their victims.

As for when domestic offenders are released from custody, there are several mechanisms for notifications to victim about offender status and release.

The Tennessee Department of Correction offers a toll-free hotline for victims in need of offender information. The Victim Offender Information Caller Emissary (VOICE)<sup>64</sup> hotline provides access to a computerized system that has the latest information from the Tennessee Offender Management Information System about the offender:

- Offender's current location
- Notice of when an offender is transferred to a facility with a lower security designation
- Date the offender's sentence went into effect
- Sentence expiration date
- 90-day notice of a release
- Date of parole eligibility
- Notice of parole hearing date, location, decision and release dates
- Escape alert
- Safety valve (earliest date that an offender can be released under executive order for overcrowding - most violent offenders are excluded from this provision)
- Contact information for parole officers

Registration with the Department of Correction does not provide release dates from county facilities. That information is only available by registering with VINE (Victim Information Notification Everyday). TN SAVIN is Tennessee's Statewide Automated Victim Information Notification Service,<sup>65</sup> providing crime victims, victim advocates, and other concerned citizens with free and confidential notification regarding a particular county inmate's release, transfer or escape from participating agencies. TN SAVIN can provide registered users access to information about particular offenders 24-hours a day, over the phone, through the Internet or by e-mail. VINE is not in place yet in Knox County. Detention Facility staff did not know when it would be, but noted it is in place in other parts of the state; a team member went to the appropriate website to attempt a search and found that Knox County is not listed as one of the counties a person can search.

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<sup>64</sup> "Tennessee Victims Have a VOICE," by Tennessee Department of Correction, accessed December 26, 2010, <http://www.tn.gov/correction/victiminformation/voice.html#VINE>.

<sup>65</sup> "Tennessee SAVIN/Statewide VINE," by VINELink, accessed December 26, 2010, <https://www.vinelink.com/vinelink/siteInfoAction.do?siteId=43000>.

However, the Knox County Sheriff's Office provides online access to records of arrests within the last 24 hours, and to records for the inmate population of the jail system. Team members did a few searches for domestic violence offenders on each and found them current within a matter of hours; and subsequently checked again on a weekend and found records updated even on Sunday. For example, in a new domestic violence arrest record on a Sunday, the record was updated a couple hours later when a photograph was taken of the offender.

The two databases can be scrolled through alphabetically; or in the inmate population database, a person can also search by the offender's name. Both databases display for each offender:

- Photo
- Name
- Birthdate
- Address
- Race
- Case number
- Document type (e.g., warrant, 12-hour hold, conditional release, violation of probation) If at this point an appearance bond was issued, or if bond was denied, a notation to that effect appears in this section.
- Booked/served. The amount of bond, if any, is noted in this section.
- Charge. In addition to the charge, other information is noted in this section, such as bond conditions, bindovers to the grand jury, release notifications to victims, etc.
- Upcoming court dates
- Additional case numbers, if any, for the upcoming court dates
- What court the upcoming court appearance will be in (e.g., misdemeanor, felony, etc.)
- The type of court appearance (e.g., misdemeanor citation, arraignment, preliminary hearing, trial, probation/judgment, report back, violation of probation, revocation, etc.)
- The role of the offender in the court appearance (victim, witness, defendant, co-defendant)<sup>66</sup>

The Detention Facility also provides a "bond information" phone number that a person who wants bond information can call.

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<sup>66</sup> *Knox County 24 Hour Arrest List*, and *Knox County Inmate Population*, Knox County Sheriff, accessed December 26, 2010 at <http://www.knoxsheriff.org/24hrlist/index.php> and <http://www.knoxsheriff.org/inmate/index.php>.

The 12-hour hold that can be imposed per Sec. 40-11-150, Tennessee Code Annotated, starts from time the offender was arrested, not from when the offender is later put in a cell. When it is time to release the offender, Detention Center staff carry out bond release notifications by telephone or will dispatch an officer to the victim's home if they cannot reach the victim by telephone. There is a form that can be filled out by anyone in the justice system on behalf of a victim, instructing the Detention Center staff how the victim wants to be notified.

Offenders that are not released are assigned to pods according to how dangerous they are deemed to be. For those offenders who present the added complication of mental health issues, there is a knowledgeable staff person who can be consulted. Two of the 19 intimate partner violence files reviewed for this audit noted mental health information about the defendants:

Case 11: *"Defendant drinking and in treatment for depression."*

Case 27: *"Defendant has significant physical and mental problems. Negligible levels testosterone. Never went through puberty. Self-medication led to drug dependency. When cannot get drugs, becomes violent . . . ."*

For offenders who are incarcerated for longer periods and have court-ordered programming with which to comply, educational groups tailored to what offenders need are provided. If an offender does not complete a court-ordered group, Detention Facility staff does not release him/her, even if the person has served the amount of time he/she was supposed to.

Work release is a privilege and is permitted for some inmates who have jobs. Work release is supervised by a jail sergeant who does site visits and checks with people the offender associates with while outside the Detention Facility. The jail sergeant has the power to revoke the work release privilege if it is abused (an example of an abuse by a domestic violence offender could be contacting or stalking the victim while outside the Detention Facility on work release).

The Detention Facility permits family member visits to inmates in 30 minute increments from 8 to 11 a.m. every day except Sunday, and from 6 to 9 p.m. every day except Thursday. The Knox County Jail permits visits 8 to 11 a.m. and 1 to 4 p.m. on Saturdays and Sundays. The family member may not visit more than one hour total per week. Visitors are required to check in 10 minutes prior to their visit; if the visitor is the domestic violence offender's victim, and if it is discovered that there is a no contact order in place, Detention Facility staff provide the victim with domestic violence resources and ask him/her to leave.

Detention Facility staff permits civil process servers to come in and serve orders of protection on respondents who are incarcerated. Facility staff are willing to serve orders on incarcerated respondents themselves if someone would fax the orders to them. However, there are differing views as to whose role it is to do the faxing (e.g., the clerks of court or someone else) and if this constitutes proper service.

And so, to keep the inclusion of the Knox County Jail system in mind regarding any multi-disciplinary recommendations made in this report, it will be helpful to readers to also keep in mind the following Audit trails<sup>67</sup> (policies, administrative practices, training and education, resources, linkages) uncovered by the Audit Team at the Knox County Detention Facility:

- Already-existing policy and administrative practices on in-custody domestic violence offender accountability issues such as:
  - Documenting threats to victims during book-in
  - Assessing danger and assigning to appropriate pods based on level of dangerousness
  - Supervising work release privileges, via site visits and contacts with associates, in order to ensure that privileges are not abused (e.g., domestic violence offenders could contact or stalk their victims while outside the Detention Facility while on work release)
- A parameter around the resource of jail space in the form of nearly 25 years of oversight and the work on the issue of jail overcrowding
- The resource of staff who are able to create and provide in-custody programming for inmates court-ordered to complete types of programming common in sentencing orders, etc.
- Already-existing medium of communication with citizens about recently arrested and incarcerated domestic violence offenders in the form of a website with:
  - Identifiers such as photos, names, birthdates and case numbers
  - Information about the charges or nature of official documents authorizing the arrest or hold for a particular inmate
  - Information about the type of bond, dollar amount, and conditions
  - Documentation of offender's release and if the victim was notified
  - Information about upcoming court dates for those offenders who aren't released

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<sup>67</sup> Supra, note 34.

### **Recommendation**

*The Audit Team recommends that Detention Facility staff be included in the pilot project on witness intimidation mentioned elsewhere in this report, as inmates commonly carry out witness intimidation through phone calls and letters from jail.*

*While it did not come up frequently or clearly enough to be articulated as a theme or as a systemic gap, two Audit Team members had communicated with domestic violence victims who said that they were not notified when their abusers were released from jail. The Audit Team recommends that the team study this further, perhaps through victim focus groups or perhaps during the witness intimidation pilot project.*

**HOW ARE DV OFFENDERS HELD ACCOUNTABLE  
IN KNOXVILLE AND KNOX COUNTY JUSTICE SYSTEM INTERVENTIONS?**

**POINT OF OFFENDER ACCOUNTABILITY – PROSECUTION**

**Gaps or Potential Gaps in DV Offender Accountability Noted by Audit Team:**

- *Some practitioners indicated evidence-based prosecution in domestic violence cases as something that was done/could be done/would be accepted in Knox County, and others indicated evidence-based prosecution was not done/could not be done/would not be accepted. This difference in beliefs and philosophy about domestic violence prosecution creates:*
  - *Different messages from practitioners to victims, offenders and other practitioners about how offenders can be, will be or are held accountable by the criminal justice system.*
  - *Differences in how offenders are held accountable.*
  - *Differences of opinion among practitioners as to if offenders are being held accountable.*
  - *Differences of opinion among practitioners as to how to hold offenders accountable.*
- *Some practitioners who work directly with domestic violence victims indicated that the different messages listed above sometimes leave victims confused or discouraged about the system's desire or ability to hold offenders accountable (e.g., "My abuse doesn't matter to the system").*
- *Some practitioners expressed concern that offenders who engaged in escalating, more dangerous or more potentially lethal conduct (such as strangulation or resisting officers) were not held more highly accountable.*

## What to Expect

Domestic violence victims and witnesses are advised of what to expect of prosecution via website:

- Be in court at 9:00 a.m. and bring the subpoena. It will have information to help find the proper courtroom.
- If no subpoena was received within 5 days of the arrest, call the District Attorney's office and ask when the case is scheduled for court.
- Once in the courtroom, check in with the District Attorney. They are the people that are on the right side of the courtroom. If late, it is ok to go to the table and tell them. There is no requirement to speak to the attorney for the defendant. Do not let them intimidate.
- An Assistant District Attorney will interview victims about their cases. The Assistant District Attorney is a lawyer who represents the State of Tennessee. Once in criminal court, the victim is no longer the person pressing charges; the State is pressing charges. After the interview, the Assistant District Attorney will make a decision.
- The Assistant District Attorney may decide to plead the case based on the interview. This means the person charged is going to say he is guilty of something. In most cases, the person will be put on probation. There will be conditions on his probation; and if these conditions are not complied with, the Assistant District Attorney or the Probation Office may file a Violation of Probation putting the defendant in jail to serve his sentence.
- The Assistant District Attorney may decide to take the case to a preliminary hearing. This will mean that the victim will get on the stand and testify about the incident that brought them into court.
- Remain in contact with the District Attorney's office.
- If there are any questions about Criminal Court or a case, contact the District Attorney's office. It is important that victims make their wishes known to the Prosecutor handling the case. If moving or changing phone numbers, one needs to inform the District Attorney's Office.<sup>68</sup>

Domestic violence victims and witnesses are also advised of what to expect of prosecution via a letter sent from the District Attorney General's office:

"The domestic case against \_\_\_\_\_ is scheduled in Misdemeanor, First Sessions at 9 a.m. on \_\_\_\_\_, 2010. A subpoena will be sent to you as you are listed as the affiant or the victim. A subpoena is a court order. If you cannot come to court or have some other reason for not coming you **MUST** call the prosecutor's office or speak to a domestic violence

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<sup>68</sup> "What to Expect When Going to Criminal Court," Knoxville Police Department, accessed January 8, 2011, [http://kpddv.tripod.com/legal.htm#What to expect when going to criminal court](http://kpddv.tripod.com/legal.htm#What%20to%20expect%20when%20going%20to%20criminal%20court).



advocate. Your police agency's advocate's number is listed below. You must contact us at least 24 hours before court. If you do not come to court on the first trial setting, the case will be reset probably two more times, the court costs will increase and we will assume you are not safe. If you are interested in helping the accused, it is best for you to come to court or speak with us as soon as possible. **Your absence does not help the accused.** You may be under the impression that the state wants to keep or put the accused in jail. **Persons accused of misdemeanor crimes seldom receive jail time.** First time offenders are always presumed eligible for probation. **What we want to do is help you and your family be safe and free from abuse.** If the accused needs help, we want to know about that. If the accused has an alcohol or drug problem; has psychiatric or psychological conditions; has difficulty controlling anger in the relationship; or is controlling, overly jealous and makes unreasonable demands, we have treatment or intervention alternatives we can recommend. I am looking forward to talking to you soon."<sup>69</sup>

#### Different Messages, Different Philosophies

Messages. Some victims who participated in the victim focus groups conducted for this Audit indicated that they felt as though they were getting mixed or conflicting messages from different parts of the system. Team members wondered what message was given in the acknowledgment of the likelihood of continuances and in the presumed audience as victims who want to help the offender. There does not seem to be an encompassing of victims who are afraid, intimidated, etc. It may be that the letter tries to cover too much – it starts out as a notification letter and moves into something acknowledging conflicted feelings. The prosecutor who created the letter was interviewed and indicated the letter was created after victims came to the prosecutor's office with letters from their abuser's defense attorneys that left them confused and with different information than they were getting from law enforcement, advocates and prosecutors.

Philosophies. In 2000, Knox County conducted its first Domestic Violence Safety and Accountability Audit. Just like the current Audit, Team members 10 years ago participated in debriefing sessions after a day's work of gathering information. Some themes articulated by team members during one of those debriefing sessions 10 years ago were:

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<sup>69</sup> Supra, note 54.

- *"Current focus on victim cooperation as pivot point for building case against suspect."*
- *"Getting police, prosecutors and courts to consider prosecuting without victim participation."*
- *"Building prosecutable cases without victim participation."*
- *"Current focus on victim as key to offender accountability."*<sup>70</sup>

During the current audit, many practitioners who were observed or interviewed in the fields of 911, law enforcement, advocacy and courts were aware of the 2000 Audit and some of the recommendations, had received a substantial amount of training in best practices in the criminal justice response to domestic violence, and felt they had incorporated many of those practices in their work. Some of these practitioners expressed discouragement that the evidence-based approach to domestic violence cases had yet to "take off" and that many cases were still dismissed "like the old days" if the victim did not want to participate in the prosecution – comments nearly identical to those made by the first Audit Team 10 years ago.

On the other hand, several others who were observed or interviewed during this Audit used the term "true victim" as a way of talking about domestic violence cases that should or should not go forward. The meaning of this term generally was not articulated – it seemed to be a quality that a practitioner was to know instinctively. One person thought it meant a law enforcement officer's view of the victim's credibility and another person thought it meant the difference between a victim that "wants something" and a victim who does not – e.g., a victim who calls the probation office and "wants something" regarding a case or an offender. Another practitioner indicated that the State of Tennessee does not do victimless prosecution; indeed the criteria for prosecution is a good witness, and that a good witness means a victim who is present and willing to testify. This belief seems to be at odds with portions of the *Tennessee Domestic Abuse Benchbook*, which was updated and edited in 2009 by legal counsel for the Tennessee Coalition Against Domestic and Sexual Violence, who was previously an Assistant Attorney General for the State of Tennessee and a Court Commissioner for Davidson County, Tennessee. See, e.g., sections on admissibility of hearsay,<sup>71</sup> admissibility of 911 recordings,<sup>72</sup> and expert testimony on the experience of battered women offered by the prosecution,<sup>73</sup> all core and common elements of an evidence-based prosecution strategy.

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<sup>70</sup> "Team 2: Points of Discussion," Knox County Audit Team, August 25, 2000.

<sup>71</sup> Tennessee Coalition Against Domestic and Sexual Violence (2009), *Tennessee Domestic Abuse Benchbook*, Tennessee Coalition Against Domestic and Sexual Violence, p. 6-22. Nashville, Tennessee: Tennessee Coalition Against Domestic and Sexual Violence. Available at <http://tcadsv.org/media/pdf/legal/Judicial%20Benchbook%202010.pdf>.

<sup>72</sup> Ibid, at p. 6-24.

<sup>73</sup> Ibid, at pp. 6-18 – 6-19.

As previously stated in the “Description of the Problem: Knox County” section of this report, in 2010, 911 dispatched 13,327 domestic violence calls for service to the Knoxville Police Department, and 5,735 to the Knox County Sheriff’s Office, for a total of 19,062 domestic violence calls for service. The police department responded to three domestic violence homicides and the sheriff’s office responded to five, for a total of eight domestic violence homicides.<sup>74</sup> Also as previously stated, in fiscal year 2008-2009, District 6 Chancery filings included 58 for orders of protection, District 6 Circuit Court filings included 2,615 for orders of protection, and District 6 Criminal filings included 141 for offenses against family/person.<sup>75</sup> The *Annual Report of the Tennessee Judiciary*, where this information is recorded, goes on to state that of 141 District 6 Criminal filings for offenses against family/person, there were 144 dispositions; and that these dispositions were 1 acquittal, 2 convictions after trial, 74 dismissals or nolle prosequis, 47 guilty pleas as charged, 6 guilty pleas to lesser charges, and 14 other.<sup>76</sup>

On the other hand, the statistics do not have a column for judicial diversion agreements, which is how domestic violence misdemeanors are sometimes disposed of in Knox County. It is not clear if the diversion counts as a type of disposition or a type of dismissal or both; or if it is part of the “other” column. In the 19 intimate partner violence cases reviewed for this Audit, a warrant was not sought for four, a plea offer or disposition is not listed for three, and two were felonies. In the remaining 10 cases, six offenders were offered a judicial diversion as a disposition of the case. The Judicial Diversion Information Sheet provided by the District Attorney General’s office indicates that a judicial diversion is not available to offenders convicted of a felony or Class A misdemeanor or to offenders who have received a judicial diversion on a previous charge. In the 19 intimate partner violence files reviewed for this audit, one offender with a record did receive such an offer, although two team members pointed out that the victim “got back together” with the offender and so there may not have been anything else the prosecutor could do. A practitioner interviewed for this Audit indicated that even though the diversion is called a judicial diversion, it is the prosecutor overseeing it, not the judge. That is, the prosecutor is the one who is notified or otherwise becomes aware that the agreement is not complied with, etc. The person interviewed said one of the local judges was involved in a study group about specialized courts generally, not specifically on domestic violence, and noted that the advantage of such courts is that judge is overseeing agreements and can do something about offender accountability on-the-spot as the offender stands before the court.

Statistics also do not account for a domestic violence prosecutor’s quality control issues, such as a private citizens’ ability to initiate prosecutions, which occurred in one of the files reviewed for this Audit; on-scene officer perception being different than the officer going to the magistrate; most misdemeanor DV cases going from law enforcement

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<sup>74</sup> Supra, note 20.

<sup>75</sup> Supra, note 21.

<sup>76</sup> Supra, note 13, page 78.

to magistrate for warrant/bond setting and offenders getting out of jail before a prosecutor sees the cases; occasional dual arrests, cross complaints and dual orders of protection (one of each of these appear in the files reviewed for this Audit) that make determining credibility and assigning accountability almost impossible; and victims sometimes renewing their relationship with the offender or having no place to go and then not wanting to prosecute, to talk to anyone about the case, or to come to court.

This last scenario happened in three of the 19 intimate partner violence cases reviewed by the Audit Team. Team members discussing these cases observed:

- *"The prosecutor realized the victim had no other place to go, so the "no contact" got dropped, leaving the "no abuse" condition in place;"*
- *"It was helpful for the prosecutor to oversee this and get something, even if not ideal, because it gave the victim time to move from her house;" and*
- *"It looks like the parties got back together. Maybe this was the best the prosecutor could do, if the victim wasn't going to go forward."*

#### Escalation, Danger, Lethality (e.g., Repeat Offenders, Resisting Officers, Strangulation)

As stated in the Law Enforcement section of this report, some practitioners thought dismissals of domestic violence cases contributed to repeat offending: "I see a lot of repeat offenders. Violence escalates. Nothing happens to repeat abusers. No accountability, no deterrent – why stop?"

Some of these practitioners observed or interviewed during the current Audit also felt that domestic violence offenders who also resisted or assaulted officers were not held more highly accountable for that behavior. In the 19 intimate partner violence files reviewed during this audit, two of the offenders also resisted or assaulted law enforcement officers:

Case 11: *"Upon placing the defendant in handcuffs, upon taking the defendant to the ground, the defendant began kicking and headbutting officers."*

Case 12: *"The defendant tried to punch two officers. He had to be tased and restrained on the floor to be taken into custody."*

Both offenders were charged with domestic assault and resisting; both were offered a plea to one charge – in one case it is not clear which one and in the other case, it was a plea to the domestic assault with the resisting dismissed. The sentencing recommendations did not appear any different than cases without the crime of resisting or assaulting officers.

Finally, see the Law Enforcement section of this report for excerpts of files reviewed by the Audit Team that evidenced strangulation. Seven of the offenders in the 19 intimate partner violence files reviewed for this Audit strangled their victims. All but one of these seven offenders were charged with a misdemeanor. Of the six misdemeanor cases, two were disposed of with pleas to the charge, two were disposed of with diversion agreements and two were dismissed.

## **Recommendations**

*To the extent that any recommendation needs research, initial contact with various practitioners, or other tasks, the Audit Team has expressed willingness to continue as a work group to help implement the recommendations of this report.*

### Mission/Concepts and Theories

Some recommendations made by the Audit Team are almost identical to those made about prosecution during the 2000 Audit. Before repeating those recommendations in this Audit report, it is important to recommend that some foundational discussion and work take place among key players in domestic violence (law enforcement, prosecution, advocacy, judiciary, probation and batterers programming) to clarify what common philosophy there is or should be on batterer accountability; and articulate a common mission related to batterer accountability that can be written and referred to in the future to ensure systemic accountability. This is important because recommendations repeated from past evaluative efforts and reports without resolving the underlying “sticking point” are not likely to be implemented. Trainings of participants who privately hold onto perceptions or beliefs at odds with other practitioners in their justice system – e.g., that evidence-based prosecution can or cannot be done, that it is or is not legally possible, that judges will or will not allow it – are not likely to be applied in practice or institutionalized in policy.

### Recommendations from 2000 Audit to Be Repeated

**Policy.** Recognizing that the system cannot immediately begin prosecuting all cases without victim participation, identify the first kinds of cases to start prosecuting without victim participation. Consider starting with the cases that involve offender recidivism or felony cases. Alternatively, if it is believed that new investigative procedures will be needed to accomplish this, consider implementing these new procedures in a limited number of police squads and focus prosecution without victim support on those cases.<sup>77</sup>

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<sup>77</sup> Supra, note 29.

*[Note from 2010: The Police Department has a repeat offender squad, and the Sheriff's Office has a career criminal unit, that perhaps could be tapped for their advice or expertise in prioritizing such cases, perhaps could be coordinated with on particular cases, etc.]*

Training. Coordinate multi-disciplinary training (911, law enforcement, magistrates, prosecutors, probation and judges) to work through real case scenarios: develop guidelines and agreements regarding the acceptance of excited utterances and other hearsay exceptions, and admitting recorded evidence such as 911 recordings, cell phone data; etc.<sup>78</sup>

*[Note from 2010: Prosecutors do not produce reports on offenders as law enforcement and probation officers do – they are a collecting point for information from other practitioners upon which they then have to make decisions about holding offenders accountable. Multi-disciplinary training will then be important so that all other practitioners involved in providing information to prosecutors have an opportunity to hear the training at the same time, work through problems and case scenarios at the same time, hear questions and issues raised by other practitioners, and hear how those questions and issues are answered by supervisors. Interactive, multi-disciplinary training better insures the instillation of a common philosophy on offender accountability, and that everyone is on the same page regarding policy and its application.]*

*The District Attorney General's Office has already begun to address this training recommendation, as it hosted a statewide, multi-disciplinary conference on domestic violence prosecution<sup>79</sup> in Knoxville in February, 2011.]*

#### New Recommendations

Rules and Regulations – Policy. The Audit Team recommends following up with Sessions Court judges to see if there is any movement toward a specialized court that would impact the rest of these recommendations.

Rules and Regulations – Law. The Audit Team recommends supporting the Sheriff, Police Chief and District Attorney General in their already-existing efforts to pass legislation criminalizing the attempt to strangle. This could entail occasionally providing information to them on the difficulty, extra time, and extra cost in prosecuting strangulation cases without a corresponding statute; or highlighting particular cases that would be illustrative to the public and to legislators of the need for such a statute.

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<sup>78</sup> Supra, note 29.

<sup>79</sup> Supra, note 47.

Training - Strangulation. The Knoxville Family Justice Center already arranged for long-time national trainers on strangulation, Dr. Dean Hawley, Resident in Pathology, Methodist Hospital of Indiana, and Gael Strack, Director of the National Family Justice Center Alliance, to do a multi-disciplinary training on strangulation investigation and prosecution<sup>80</sup> in February 2011.

Training – Victim and Witness Intimidation. The statewide domestic violence prosecution training<sup>81</sup> in Knoxville in February 2011 included a presentation on victim and witness intimidation. After the training, the Audit Team and leaders of the District Attorney General's Office, the Police Department and the Sheriff's Office met the presenter and agreed to participate in a federally funded pilot project to study witness intimidation in 2011 and 2012.

Training/Education – Role with Victims. Consider revamping the letter to victims that clarifies prosecutorial role and process, and places other information for victims in a separate brochure or flyer.

Training/Education - Role with Law Enforcement. Develop mechanisms to deliver regular, consistent messages to law enforcement on problem areas in domestic violence cases articulated earlier in this report:

- Police decision-making, such as no arrest, dual arrest, self-defense, and predominant aggressor.
- The need for witness statements and contact information.
- Documenting the presence and condition of children who witnessed domestic violence.
- Feedback on why a case was dismissed.

Examples of mechanisms: shift change advisories (either in person or funneling information to liaison officer), lunches, memos, e-mail blasts, list serves, pocket reminder cards that could also be placed online, etc.

### Linkage - Dismissals

The Audit Team recommends that law enforcement partner with the District Attorney General's Office to create a regular meeting with domestic violence investigators/supervisors and domestic violence prosecutors about dismissed cases that law enforcement would like to revisit in the hopes of holding repeat or dangerous offenders more highly accountable.

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<sup>80</sup> Supra, note 40.

<sup>81</sup> Supra, note 47.

See, for example, the monthly meeting between Assistant St. Paul City Attorneys and St. Paul Police domestic violence investigators about dismissed domestic violence cases that investigators have identified as committed by repeat or dangerous offenders. Investigators have an opportunity to provide additional information that may make cases chargeable, ask prosecutors questions, brainstorm with prosecutors about how to hold the offender accountable, etc.

### Linkage – Gone-on-arrivals

The Audit Team recommends that law enforcement partner with the District Attorney General's Office to give gone-on-arrival cases high priority when they include: (1) multiple high-risk factors, (2) suspects who are on probation or supervised release, or (3) chronic offenders. As a result, some of these cases should come before magistrates and courts more quickly. In the past, it was possible for a defendant to be released on comparatively low bail in gone-on-arrival cases because the person had essentially been out without bail for some time. In high risk cases, law enforcement and prosecutors can support requests to magistrates and courts for related warrant and higher bail requests.

See, for example, the FLARE-UP Project in St. Paul, Minnesota, which creates a "Gone on Arrival Screening" partnership between a domestic violence investigator and a domestic violence prosecutor. Prior to the project, a GOA case averaged 4 ½ months to make it from law enforcement to the prosecutor's desk and 6 more weeks for the prosecutor to make a charging decision, resulting in an average of 5 months before a GOA offender made his/her first court appearance. After the project, a GOA case averages 1 to 2 days to make it from law enforcement to the prosecutor's desk and 1 to 2 more days for the prosecutor to make a charging decision, resulting in an average of 3 to 4 days before a GOA offender makes his/her first court appearance.<sup>82</sup>

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<sup>82</sup> Supra, note 48.



## HOW ARE DV OFFENDERS HELD ACCOUNTABLE IN KNOXVILLE AND KNOX COUNTY JUSTICE SYSTEM INTERVENTIONS?

### POINT OF OFFENDER ACCOUNTABILITY – COURT

#### **Gaps or Potential Gaps in DV Offender Accountability Noted by Audit Team:**

- *Domestic violence offenders are not held accountable for intimidating behavior in front of or toward victims in courtrooms or halls.*
- *Offenders sometimes postpone accountability or evade it altogether by asking for and receiving continuances repeatedly.*
- *Offenders who choose not to pay fines, court costs, or payment for programming often are not held accountable for these delinquencies for long periods of time.*
- *Orders of protection that permit social contact, that are entered as agreements among the parties, and that permit possession of firearms:*
  - *Give mixed messages to the parties and to criminal justice practitioners about offender accountability;*
  - *Are difficult to enforce; and*
  - *May not be afforded full faith and credit in other jurisdictions.*

#### Overview of Courts and Process Service

General Sessions Court is a court of limited and special jurisdiction. Currently, the Judges of the five Divisions of Sessions Court have jurisdiction over all civil cases (exclusive of divorce and worker's compensation) and all criminal offenses. The General Sessions Court, Criminal Division of Knox County has jurisdiction over preliminary hearings and trials for misdemeanor offenses, preliminary hearings for felonies, Knox County ordinances, traffic violations, and Bonded Arraignment Court.<sup>83</sup>

The General Sessions Court, Criminal Division of Knox County currently operates four courts. Cases are designated to either Sessions I (Misdemeanor), Sessions II (DUI), Session III (Felony), or Sessions IV (Citations/Environmental Ordinances). These courts

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<sup>83</sup> "Jurisdiction," Knox County accessed January 8, 2011, <http://www.knoxcounty.org/gsjudges/jurisdiction.php>.

operate Monday through Friday and start at 9:00 a.m. In addition, arraignments are held on Mondays and Wednesdays at 11:00 a.m. and judicial reviews are held on Tuesdays and Thursdays.<sup>84</sup>

Bonded Arraignment Court is located in the Fourth Sessions Court on the main floor of the City County Building. This court conducts arraignments for all persons who have been released from custody without seeing a judge or magistrate. Defendants must report to this court on the date and time specified by the release officer. Failure to report for arraignment as scheduled will result in the immediate arrest of the defendant. Bonded Arraignment Court is held daily at 10:00 a.m.<sup>85</sup>

Misdemeanor Court is located in First Sessions Court on the main floor of the City-County Building. This court hears all misdemeanor offenses except DUI and felony evading arrest (whether alone or with other misdemeanor offenses). The Domestic Violence docket is heard daily at the start of the misdemeanor docket.<sup>86</sup>

Felony Court is located in Third Sessions Court on the main floor of the City-County Building. This court hears all felony offenses except felony evading arrest, vehicular assault, vehicular homicide, HMVO and DUI 4<sup>th</sup> or subsequent offenses. The Domestic Violence docket is heard on a priority basis. The Compliance docket is at 11:00 AM at the Cost Collection Counter.<sup>87</sup>

Fourth Circuit Court, which issues ex parte orders and orders of protection, begins at 8:00 a.m. in the Third Sessions Court or sometimes in the Large Assembly Room on Main Street.<sup>88</sup>

A domestic violence victim who applies for an order of protection against an abuser also provides information on all locations the respondent may be served with process.<sup>89</sup> One of the departments of the Knox County Sheriff's Office is Civil Warrants, which serves all civil papers issued by the courts such as subpoenas, lawsuits, landlord/tenant actions, forced evictions, writs of possession, wage garnishments, levies, and orders of protection.<sup>90</sup> In 2010, an Order of Protection Unit was formed – a three member team

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<sup>84</sup> "Criminal Court Clerk," Knox County, accessed January 8, 2011, <http://www.knoxcounty.org/criminalcourt/index.php>.

<sup>85</sup> "Courts, Protocols and Locations," Knox County, accessed January 8, 2011, <http://www.knoxcounty.org/gsjudges/courts.php#bonded>.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

<sup>88</sup> "Domestic Violence Additional Information," Knox County, accessed January 8, 2011, [http://www.knoxcounty.org/fourthcircuitcourt/additional\\_info.php](http://www.knoxcounty.org/fourthcircuitcourt/additional_info.php).

<sup>89</sup> "How Do I Apply for an Order of Protection," Knox County, accessed January 7, 2011, [http://www.knoxcounty.org/fourthcircuitcourt/domestic\\_violence.php](http://www.knoxcounty.org/fourthcircuitcourt/domestic_violence.php).

<sup>90</sup> "Warrants," Knox County Sheriff, accessed January 7, 2011, <http://www.knoxsheriff.org/departments/index.php#court>.

of sheriff deputies. They participated in training with Legal Aid of Tennessee staff on domestic violence issues and legal issues related to orders of protection, and as of October 2010, had a 98% successful service rate of orders of protection (successful service defined as service in time to give proper notice of the upcoming court appearance).

If a batterer has not been served by the process servers and comes to the victim's home or the victim otherwise encounters the batterer, the victim can ask a uniformed officer to serve one of her/his certified copies of the Order on the batterer.<sup>91</sup>

The Clerk is responsible for retaining, preserving and managing of all documentation regarding court processings. This Office handles approximately 75,000 citations, misdemeanor citations, misdemeanors and felonies annually. Upon conclusion of these cases, the Clerk calculates court costs and begins the collection process, as required by statute.<sup>92</sup>

A tipsheet for appearing in court appears via website:

### **Hints for Court Day**

- Be at 4th Circuit Court at 8:00 AM and plan to stay all day.
- Bring your Order of Protection and any other court papers with you.
- Everyone should attend Judge Swann's talk. Many of your questions will be answered and instructions will be given.
- Bring money for parking and lunch.
- Court will be in recess from 12 to 1:30 for lunch.
- Please do not bring your children to court. Children are not allowed in the courtroom, and there is no one available to watch them.
- Please remember to be courteous in the courtroom. Whisper quietly when waiting for your case to be heard. Food, drinks, gum, or hats are not permitted in the courtroom. Address the Judge as "Your Honor."
- It is your responsibility to be sure that your final order of protection (If a No Contact Order) includes no contact by telephone, fax, email, pager, US mail, or third parties. Discuss this with your advocate or attorney.<sup>93</sup>

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<sup>91</sup> "What if My Batterer is Not Served with the Ex Parte Order," Knoxville Police Department, accessed January 9, 2011, <http://kpddv.tripod.com/legal.htm>.

<sup>92</sup> Supra, note 76.

<sup>93</sup> "Hints for Court Day," Knoxville Police Department, accessed January 9, 2011, <http://kpddv.tripod.com/legal.htm>.

## Environment

Audit Team members who observed misdemeanor court and 4<sup>th</sup> Circuit Court, and interviewed practitioners who work or appear there, noted how intimidating the environment was for domestic violence victims, and how offenders sometimes contributed to that intimidation.

Misdemeanor court was very noisy; attorneys and other practitioners were trying to conduct work in the back of the room, and every few minutes someone called out names of cases or warrants. Inmates in chains were seated in the room and sometimes clanked or rattled the chains. Sometimes out-of-custody defendants appearing for court made flippant comments that appeared to be an attempt to seek approval or laughter from other males in the room, such as "I love her, but she keeps throwing herself on the concrete, so I am going to have to stop seeing her because I don't want to go to jail." Sometimes defendants appeared with their victims, as in the case of one defendant who appeared with his victim to request an attorney and petition to remove the no contact condition on his bond. The court reset his appearance to permit him time to get an attorney and granted the request to remove the no contact condition. Audit Team members reported many similar observations of defendants and victims appearing together in their recent years while working on domestic violence cases and being in or around the courts.

In 4<sup>th</sup> Circuit Court, Audit Team members saw respondents to protection orders staring at, making fun of or laughing at domestic violence victims without being addressed by bailiffs. Additionally, Team members observed instances of one-on-one intimidation. In one example, a respondent appearing for a hearing on an order of protection had his arm around the petitioner. The order was dismissed. In another, a man had a woman up against a wall and was saying to her "You need to drop this – I'm going to lose my guns." Team members also saw men "hitting" on women; one using the courtroom as a "meet market," and another looking at women he apparently found attractive and eyeing them up and down in a very exaggerated, "creepy" way. Victims waiting for their case to be called were not unaffected; one said aloud that she was nervous and needed her medication. Another approached a clerk who said, "Why are you whispering?" and the woman responded "Because he's right there (referring to the man beside her)." No one made him leave or move over. Victims who participated in the focus groups conducted for this Audit made related comments:

- *"I have feelings of anger about the abuse but I couldn't show it because I'd look like my abuser."*
- *"When my abuser was taken to jail, they did a hearing by video. I want to know why order of protection hearings can't be done by video."*
- *"It was very intimidating and felt unsafe – the victims were in very close proximity to the respondents."*

In 2000, Knox County conducted its first Domestic Violence Safety and Accountability Audit. Just like the current Audit, Team members a decade ago participated in debriefing sessions after a day's work of gathering information. A theme articulated by team members during one of those debriefing sessions 10 years ago:

- *"It's a 'cattle call' for order of protection hearings: victims and offenders side-by-side; crowded; no building/courtroom security."*<sup>94</sup>

As for 2010, an Audit Team member pointed out that Order of Protection hearings are not held in the Assembly Room anymore. They are held in Third Sessions Court, which is a small area. On days where Order of Protection matters are heard there, it can be very crowded. In addition to being a more spacious room, the Assembly Room also has theater-style (individual seats on flooring that is higher at the back of the room than the front) seating as opposed to the typical courtroom seating.

The area around the Clerk of Courts office can also become crowded and busy. Some Audit Team members thought this could be due in part to the orientation (described below) not having enough information needed by domestic violence victims. Two victims who participated in the victim focus groups made similar comments and felt that the assistance they received at the Family Justice Center applying for the orders should have included more information about what to expect, what is likely to happen, safety issues, etc. Advocates from the YWCA, Child and Family TN, and the Salvation Army used to be present to help "fix the flow" – they would divide up the docket, talk to people, etc. They do not do this anymore and clerks are put in the position of being approached by domestic violence victims for directions, instructions, etc. that did not used to be their role to provide, and which clerks do not feel is their role to provide. For example, one clerk being asked something by a victim at the 4<sup>th</sup> Circuit Court counter told the woman she would not be able to do or advise on whatever was being asked because the clerk was not an attorney. Additionally, Team members indicated that clerks do not have training on victim safety and are not aware of victim safety issues.

Several law enforcement officers indicated they have been in this area on days when orders of protection are calendared and observed violations of orders or had victims approach them to report violations. The officers said they had been told the order does not apply in the courthouse, so contact and threats occur for which batterers are not held accountable.

An Audit Team member thought that overall, victims experiencing this sort of environment must feel that they are the crazy ones and that they are wrong to be there.

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<sup>94</sup> "Attachment E – OP Focus Group," Knox County Audit Team, September 1, 2000.

A Domestic Violence Safety and Accountability Audit report from another part of the United States indicates that untrue or embarrassing comments to or about victims in open court are a deterrent to victims coming forward;<sup>95</sup> and that fear, embarrassment and discouragement about court dynamics can result in victim reluctance to call law enforcement or participate with prosecutions in the future.<sup>96</sup>

### Continuances

Misdemeanor Court All law enforcement officers interviewed, observed, or participating in focus groups commented that the continuances granted to domestic violence defendants were a means that defendants or their counsel use to postpone being held accountable or to escape it entirely. In Knox County, witnesses are expected to appear at court appearances. Almost all officers had several examples of cases being continued three or more times until the victim became discouraged and did not appear or they, as the police officer witness, had a conflict and was late or could not appear. The defense attorney would then ask for the case to be dismissed. A couple officers had had the experience of stepping from the courtroom to the hall for a moment, only to step back into court and find the defense attorney moving for dismissal because “the officer is not here.”

An Audit Team member wondered if it was then a good message to send, in the form letter to domestic violence victims from the District Attorney General's Office (see Prosecution section of this report), a warning that cases may be continued at least two times.

In Domestic Violence Safety and Accountability Audit reports from other parts of the United States, defendants and their attorneys played the “waiting game” for various reasons: thinking the longer they wait, the less likely the victim will testify;<sup>97</sup> delay gave a longer window of opportunity for offenders to harass or intimidate the victims who made complaints against them; victims became discouraged after continuances and “dropped out” of the process; witness memories faded or witnesses were not able to be located; physical evidence can become lost or corrupted; and parties, witnesses and jurors can develop a “What’s the point?” attitude about cases that appear to them to have languished for no articulated reason.<sup>98</sup>

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<sup>95</sup> McCormick, A., Pence, E. & Martinson, R. (2007). *Itasca County Safety and Accountability Audit: Enhancing Victim Safety and Offender Accountability in 911, Law Enforcement and Prosecution of Domestic Assault Cases*, p. 68. St. Paul, MN: Praxis International.

<sup>96</sup> Ibid, page 75.

<sup>97</sup> Martinson, R., Tessarowicz, L. & Ptak, A. (2007). *El Paso County, Colorado Institutional Safety & Accountability Audit Report*, pp. 56-57, available at [http://www.bwjp.org/files/bwjp/articles/ElPaso\\_County\\_Audit\\_Report.pdf](http://www.bwjp.org/files/bwjp/articles/ElPaso_County_Audit_Report.pdf).

<sup>98</sup> Martinson, R. (2010). *Milwaukee County Institutional Safety & Accountability Audit Report: How Does the Milwaukee County District Attorney's Office Communications with Victims Help or Hinder Victim Safety and Offender Accountability*, pp. 58-59, draft report awaiting publication. Milwaukee, WI: Milwaukee District Attorney's Office, and the Sojourner Family Peace House.

4<sup>th</sup> Circuit Court On the other hand, in an Order of Protection court, a continuance may be an expression of concern for victim safety and an extension of the attempt to hold an offender accountable. In one of the order of protection matters observed by Audit Team members, one of the Special Masters hearing cases on behalf of the judge read the file when the petitioner did not appear for the second time for a hearing she had requested. He continued the hearing for a third time, indicating he would not make an assumption that the petitioner no longer wanted the order of protection. In the 19 intimate partner violence files reviewed by the Audit Team, three cases included instances of hearings on orders of protection that were continued three to four times before dismissing because of the petitioner's failure to appear.

### Costs

The Clerk of Courts' Office is understaffed and often unable to collect delinquent court costs and fines quickly, which affects offender accountability. An Audit Team member was aware of a resolution that had been passed to attach a surcharge to every fine: \$42 would go to the Family Justice Center. Of course, if collecting the initial fine is currently difficult, having the surcharge attached to it will not result immediately in extra money to fund local efforts on domestic violence offender accountability. However, the Clerk did send a member of the office to the Audit Team training and is interested in collaborating on this issue with the Family Justice Center and/or the Audit Team.

### Orders of Protection

What to expect Domestic violence victims are advised of what to expect of the Order of Protection process via the Knox County website:

An Order of Protection is a piece of paper. It does not stop a bullet or a knife. But it is a powerful document containing judicial commands and prohibitions. Most importantly, it tells a defendant not to abuse a plaintiff - not to use violence, or threaten it against the plaintiff, not to damage the plaintiff's things or pets, not to hold the plaintiff somewhere and keep her/him from leaving, and not to frighten the plaintiff. It also prohibits stalking and sexual assault. If the defendant violates your order of protection, he/she goes to jail. It may also prohibit any contact from the defendant to the plaintiff. It is a one-way document - not mutual. It restricts the defendant, not the plaintiff. If there is a marriage, or if there is an order of paternity or legitimization for a child between the parties, the order of protection may also provide support for the plaintiff and/or child. There are other kinds of relief available in other circumstances as well.

Anyone can get an order of protection. But it is only available for you against a person: (1) to whom you are currently or formerly related by blood or marriage; (2) with whom you have resided; (3) with whom you have had an intimate sexual relationship; (4) whom you have dated; (5) with whom you have a child, born or unborn; (6) who has stalked you; or (7) who has sexually assaulted you. Two neighbors cannot obtain an order of protection, unless stalking or sexual assault is involved. Also, the defendant (the person against whom the order is taken) must always be an adult (eighteen years old, or if younger, emancipated). Under certain circumstances, a child may obtain an order of protection against an adult, if the adult falls in one of the seven categories set out above. Normally, however, matters of child abuse should be taken to the Knox County Juvenile Court. Most orders of protection are between women and men. However, many orders of protection are between people of the same sex. Finally, elder abuse is emerging as a growing category of litigation. Elderly persons experiencing abuse from younger persons may use Tennessee's order of protection statute.

Do I need an Order of Protection? Tough question. It's tough to answer because people are so different. If you are really in danger, or believe you are, an order of protection may help. On the other hand, if you are not in danger and - this is very important - if there has NOT been a pattern of recurring violence, then you may want to consider other options. Discussion of the other options with social service agencies may lead to solutions more effective than litigation.

To apply for an Order of Protection, go to the Family Justice Center. It is downtown. See map. It's reachable by bus, using Knoxville Area Transit. They will assist you in filling out the application for an order of protection. The defendant must be a Knox County resident, or the abuse must have occurred in Knox County. You must give to the Family Justice Center the following information: (1) full names of the parties and dates of birth; (2) full names and ages of children if any; (3) petitioner's and respondent's relationship to each other; (4) mailing addresses; (5) telephone numbers; (6) a mailing address for you (not necessarily your location - that may remain confidential); (7) all physical locations where the defendant may be served with process; (8) circumstances which prompted the filing; (9) lawsuits the parties may have together now; and (10) description of defendant, defendant's place of employment, and defendant's vehicle. If the defendant violates your Order of Protection, go back to Family Justice Center and ask for a "contempt petition." Write down what happened in plain terms. It is very important to bring any and all violations back to



court for a contempt hearing as soon as they occur, because it is only through dependable, predictable consequences that new behavior can be taught.

There is no fee for beginning an order of protection. At the end of the case, court costs will be taxed against someone. Who is it who will end up paying the accumulated court costs? If the petitioner (plaintiff) obtains an order of protection, the court costs must by state law be taxed against the respondent (defendant). If the order of protection is not granted, then court costs go to the petitioner. The petitioner may be taxed with the costs if the case is dismissed by the court because of lack of service of process, or failure of the petitioner to appear at the hearing. It is necessary that good addresses be provided for the respondent. If a home or work address for the respondent is not known, the probability of service is not good. Service of process is necessary in order to proceed in court. Fees charged by the Fourth Circuit Court are set by the state legislature and are standard in every case. Fourth Circuit Court will accept partial payments, provided these payments are made regularly each month.<sup>99</sup>

Additional information, provided by the Knoxville Police Department, states that police can arrest a batterer without a warrant if they find probable cause that an order of protection has been violated. Victims also have the right to file a Show Cause in the court where the order was granted. A Show Cause tells the Judge that the order has been violated. The victim is given a court date at which she/he will need to prove the order was violated and is responsible for bringing any witnesses or evidence necessary to make the proof. If the Judge finds that the order of protection was violated, the batterer can get up to ten days for each violation.<sup>100</sup>

Finally, the Knox County website also tells victims if they are unrepresented and opposed by a represented respondent, they may ask the court to provide a volunteer lawyer.<sup>101</sup>

Types of orders The Social Contact order of protection allows the petitioner and respondent to be together, if they choose, but prohibits the respondent from committing any of seven forms of abuse: violence, threats of violence, malicious destruction of property, holding against the will, placing in fear, stalking and sexual assault.

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<sup>99</sup> "Domestic Violence," Knox County, accessed January 9, 2011, [http://www.knoxcounty.org/fourthcircuitcourt/domestic\\_violence.php](http://www.knoxcounty.org/fourthcircuitcourt/domestic_violence.php).

<sup>100</sup> "What Do I Do if My Batterer Breaks the Order of Protection," Knoxville Police Department, accessed January 9, 2011, <http://kpddv.tripod.com/legal.htm>.

<sup>101</sup> Supra, note 80.

The No Contact order of protection prohibits the seven forms of abuse listed above, and also prohibits the respondent from coming about the petitioner (coming within eyeshot of the petitioner, wherever she/he may be) at home, at work, on the public streets, or anywhere else. It prohibits driving by the petitioner's home, job, or any place where she/he is. Exchange of children is done by the agent of the receiving parent, or one parent takes children to school/daycare and other parent picks the children up at the end of school day.

The "Chinese Wall" order of protection is the same as the No Contact order of protection, but additionally prohibits all forms of communication from the respondent to the petitioner: telephone calls, mail, fax, pager messages, e-mail, or messages sent through third persons. Messages via attorney-to-attorney contact are acceptable. Again, exchange of children is done by the agent of the receiving parent, or one parent takes children to school/daycare and other parent picks children up at end of school day.<sup>102</sup>

Orders can be agreed to, or contested. An agreed order means the petitioner and respondent have agreed to everything on the order. Most orders are resolved by agreement. A contested order means that the petitioner and respondent are not able to agree on some of the conditions of the order. In this case, the Judge conducts a hearing to hear from both parties and then makes a decision on the contested issue.<sup>103</sup> A number of practitioners interviewed for this Audit or who participated in focus groups said it was hard, if not impossible, to enforce violations of orders of protection that permit social contact, or situations where both parties have separate orders against each other. In three of the 19 intimate partner violence cases reviewed for this Audit, parties subsequently received orders of protection that permitted social contact. In Case 6, both parties applied for orders against each other, after which the Assistant District Attorney declined to issue charges. Several victims in the victims' focus groups also said orders they had received permitting social contact could not be enforced, and several said their abusers were able to get an order of protection before they could. Some practitioners interviewed said that they believed too many citizens had orders of protection and that the local attitude was "anyone can get one."

In the 19 intimate partner violence files reviewed for this Audit, seven victims applied for orders of protection after the initial report to law enforcement. In two instances, a dismissal was entered after the petitioner failed to appear. In the remaining five cases, the order states it is being entered upon the agreement of the parties. Team members reviewing files for this Audit wondered about the message that agreed orders sends to parties about the violence or justice system; any pressure victims may have felt to agree, given the busy, crowded, intimidating court environment described above; and

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<sup>102</sup> "Domestic Violence Types of Orders," Knox County, accessed January 9, 2011, [http://www.knoxcounty.org/fourthcircuitcourt/types\\_of\\_orders.php](http://www.knoxcounty.org/fourthcircuitcourt/types_of_orders.php).

<sup>103</sup> "Do I Have to Go to Court," Knoxville Police Department, accessed January 9, 2010, <http://kpddv.tripod.com/legal.htm>.

if this affected full faith and credit<sup>104</sup> afforded to the orders in other states. The Order of Protection form provided by the State of Tennessee has a place for the court to make findings about the abuse.<sup>105</sup> The Order of Protection form used by 4<sup>th</sup> Circuit Court in Knox County has an option that does not appear on the state form: “The parties have reached a simple agreement that an order of protection should enter. Accordingly, the court makes no finding of fact; no hearing has been held; no testimony has been offered; and the respondent has made no admission with reference to this proceeding by virtue of his/her consent to the agreement, through counsel, or otherwise.”<sup>106</sup>

In 2000, Knox County conducted its first Domestic Violence Safety and Accountability Audit. Just like the current Audit, Team members a decade ago participated in debriefing sessions after a day's work of gathering information. Themes articulated by team members during one of those debriefing sessions 10 years ago:

- *“This is the only county that does social and “agreed” (negotiated) orders. There are very few “proof” orders. Victims feel pushed for agreed orders. This needs discussion.*
- *“The numbers of orders of protection are overwhelming. This may be a way of managing case load.”<sup>107</sup>*

Orientation Audit Team members observed that persons waiting for their Order of Protection matter to be called, and were present for the orientation, did not watch the video portion of the orientation. One spectator was heard to say “This is old.” Team members thought the some of the practitioner interviews in the video might be too long to hold people's attention; and if those were shorter and made about court and nothing else, people would be more likely to stay attentive.

Team members who had observed activities at the Detention Facility and interviewed Facility staff said that inmates in the Facility as a result of committing domestic violence do not hear the type of information given in the orientation, and need to. Other team members noted there was nothing in the orientation for petitioners about safety. University of Tennessee College of Nursing senior students do attend 4<sup>th</sup> Circuit Court to hear orders of protection cases. Under the supervision of nursing faculty, students assess victims' danger and any incidence of strangulation, discuss safety planning, and provide resource information on prenatal care, mental health, substance abuse, and

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<sup>104</sup> See resources on full faith and credit at the webpage of the National Center on Protection Orders and Full Faith and Credit at <http://www.bwjp.org/publications.aspx>.

<sup>105</sup> “Order of Protection,” Tennessee Administrative Office of the Courts, accessed January 12, 2011, <http://www.tsc.state.tn.us/geninfo/Publications/Forms/Protection/2010/Final%20Order%20of%20Protection%2012-15-10.pdf>.

<sup>106</sup> “Order of Protection” form, 4<sup>th</sup> Circuit Court, Knox County, Tennessee, collected January 2010.

<sup>107</sup> Supra, note 86.

primary care. They also complete plaintiff case histories on victims represented by the University of Tennessee College of Law students in the Domestic Violence Litigation Project.<sup>108</sup>

The orientation includes a PowerPoint presentation by the Court, which describes the different kind of orders available, the difference between agreed and contested orders, and that with agreed orders there is no loss of firearms.

In the 19 intimate partner violence files reviewed for this Audit, seven victims applied for orders of protection after the initial report to law enforcement. In two instances, a dismissal was entered after the petitioner failed to appear. In both cases, petitioners had asked in their application that the respondent be prohibited from owning, possessing, transporting or using a firearm. In the remaining five cases, no order is made prohibiting the respondent from owning, possessing, transporting or using a firearm, even though in two cases the petitioner requested this. *The Tennessee Domestic Violence and Firearms Benchcard* indicates a defendant/respondent who is under a qualifying order of protection may not possess a firearm according to federal and Tennessee law.<sup>109</sup> The Order of Protection form provided by the State of Tennessee has a place for the court to make findings about firearms:

**The Respondent** (*check all that apply*):

- ☐ Has no firearms
- ☐ Has firearms that he/she must give to someone else who is allowed to have them (TCA§ 36-3-625).
- ☐ Has firearms that are registered under the National Firearms Act and must be either transferred to a responsible third party, or locked in a safe or other secure container to which the Respondent does not have access. A state or federal agency must give its approval before the firearms are turned in.
- ☐ Has a federal firearms license (FFL) or is a responsible party under an FFL, and has firearms under that FFL that qualify as business inventory, and (*check one*):

- ☐ There is **no** responsible party listed on the FFL other than the Respondent in this case. The Respondent must turn in or transfer all firearms inventory under his/her control to a separate FFL holder who is legally allowed to have firearms.
- ☐ There **is** another responsible party listed on the FFL other than the Respondent in this case. This Order does not require the Respondent to turn in or transfer the firearms inventory.<sup>110</sup>

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<sup>108</sup> Ginger Evans, e-mail message to author, April 15, 2011.

<sup>109</sup> "Domestic Violence and Firearms Benchcard," Tennessee Coalition Against Domestic and Sexual Violence, accessed January 12, 2011, <http://tcadsv.org/media/pdf/legal/2010benchcards.pdf>.

<sup>110</sup> Supra, note 97.

The agreed order option (described above) provided in the Order of Protection form used by 4<sup>th</sup> Circuit Court in Knox County states “This order has no effect upon respondent’s Second Amendment right to keep and bear arms. That right is unimpaired by this order.”<sup>111</sup>

In the 2000 Audit, themes articulated by team members during debriefing sessions 10 years ago:

- *“Respondents’ hiring of attorneys has increased as OP laws & gun law have made it more complex.”<sup>112</sup>*

### **Recommendations:**

*To the extent that any recommendation needs research, initial contact with various practitioners, or other tasks, the Audit Team has expressed willingness to continue as a work group to help implement the recommendations of this report.*

### **Mission/Concepts and Theories**

Some recommendations made by the Audit Team are almost identical to those made about prosecution during the 2000 Audit. Before repeating those recommendations in this Audit report, it is important to recommend that some foundational discussion and work take place among key players in domestic violence (law enforcement, prosecution, advocacy, judiciary, probation and batterers’ programming) to clarify what common philosophy there is or should be on batterer accountability; and articulate a common mission related to batterer accountability that can be written and referred to in the future to ensure systemic accountability. This is important because recommendations repeated from past evaluative efforts and reports without resolving the underlying “sticking point” are not likely to be implemented. Trainings of participants who privately hold onto perceptions or beliefs at odds with other practitioners in their justice system – e.g., all witnesses have to/do not have to show up at all court appearances and continuances, social contact or agreed orders of protection should or should not be offered to parties, possession of firearms during the pendency of an order should or should not be left intact – are not likely to be applied in practice or institutionalized in policy.

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<sup>111</sup> Supra, note 98.

<sup>112</sup> Supra, note 86.

## Recommendations Repeated from 2000

Rules and Regulations – Policy. A specialized court (see discussion in the Prosecution section of this report) or docket that handles both the criminal and civil cases arising out of domestic violence between the parties.<sup>113</sup>

*[Note from 2010: This wider-encompassing knowledge about the parties and the violence in these situations might also be accomplished by connecting information from the criminal court to the civil court, to aid decision-making about types and conditions of orders.]*

## Resources

Re-examine law and policy regarding subpoenaing all witnesses to each court appearance.<sup>114</sup>

Build representation for petitioners in order of protection cases where petitioners request respondents' firearm possession be prohibited.<sup>115</sup>

Regarding the overwhelming order of protection caseload, review whether orders are the appropriate remedy for all situations. For example, review with attorneys as to whether they may be recommending them for clients unnecessarily.<sup>116</sup>

## New Recommendations from 2010

### Mission

Most justice agencies have missions that include attention to public safety; and most specialized domestic violence courts or dockets have missions that include attention to victim safety and offender accountability. However, these often have to do with what an agency or its staff does. The Audit Team recommends that same sort of mission related to offender accountability be extended to places victims must wait to speak or provide information.

The community has already done significant work to address domestic violence generally (see the Knox County History of Coordinated Community Response section in this report). However, the Audit Team noted that there is no specific person whose job it is to assess offender accountability issues for courtroom/court hall environment and respond accordingly.

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<sup>113</sup> Supra, note 86.

<sup>114</sup> Supra, note 29.

<sup>115</sup> Supra, note 86.

<sup>116</sup> Supra, note 86

## Education/training

Once the above mission is articulated, the Audit Team recommends educating relevant practitioners about courtroom and waiting area issues and appropriate responses, after which victims should also be educated about intimidation and responses to safety concerns in courts and waiting areas.

Causing some of the victims' fears, embarrassments and discouragements are issues or situations that long-time courtroom practitioners may have developed a tolerance for without realizing it; the Audit Team recommends simply meeting with judges about courtroom decorum and providing them information from the focus groups with battered women.

## Resources

Once a mission is articulated, potential resources brainstormed by the Audit Team can be prioritized for appropriateness and implementation:

- Consider the utilization of volunteers in places where victims wait for court appearances. While not appropriate to use untrained personnel to cover the gamut of working with victims, volunteers could be of limited but helpful service in assisting victims with getting to the right place, staying in the room, and calling the appropriate law enforcement staff in the event of a security issue.
- Work with courts and law enforcement to create a courtroom/court hall monitor. A monitor with a law enforcement or another authoritative presence could prevent some intimidating behavior, noise, etc. A monitor could also observe crimes of intimidation or no-contact violations, and be a person to whom such crimes are reported.
- Being aware that there will be some level of uncomfortable contact or presence in any courtroom, and coupling any improvements with educating and preparing victims for the adversarial nature of court, the Audit Team recommends utilizing advocates as liaisons with the court system to discuss complaints of when defendants seem to be going beyond what is appropriate;
- Work with courts to explore and identify privacy resources available in or near courtrooms/court halls.

The Audit Team also recommends that appropriate representatives of law enforcement, magistrates, the District Attorney General's Office, courts, the Clerk of Courts Office, batterer intervention programs, and probation meet to discuss the viability of the position of "compliance monitor" that could:

- Monitor or oversee payment of court costs, fines, payments for programs, etc.
- Be a recipient of reports or complaints of violations, failures or delinquencies.
- Be a tracker or locator of individuals who have become delinquent and have moved from their last address.
- Quickly process and walk through paperwork necessary for warrants or liens.
- For those individuals that are arrested and ask for a hearing on their non-payment, provide the supporting evidence of non-payment and be available to report to the court if requested.
- Be possible that such a position could eventually assist with other compliance areas that are often associated with domestic abuse, such as failure to pay child support.

The Family Justice Center has already expressed a willingness to apply for grant funding for such a position, should it be agreed to by Family Justice Center partners.

Examples of similar positions:

- A probation/protection order liaison stationed at a domestic abuse service center within the Hennepin County (Minnesota) Government Building to check for conflicts between conditions of probation and conditions of a protection order, check for any outstanding warrants regarding violations, etc.
- Witness security officers, contained within the Milwaukee County District Attorney's Office, have a case load of domestic violence cases where the offender has been identified as having a history of intimidating behavior. Officers investigate and document such history, can conduct some surveillance if necessary and do specialized safety planning with victims around up-coming court appearances.
- A former probation officer now attached to the Henderson (Nevada) City Attorney's Office supervises offenders on diversion agreements for domestic violence misdemeanors.



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| <p style="text-align: center;"><b>HOW ARE DV OFFENDERS HELD ACCOUNTABLE<br/>IN KNOXVILLE AND KNOX COUNTY JUSTICE SYSTEM INTERVENTIONS?</b></p> |
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## **POINT OF OFFENDER ACCOUNTABILITY – BATTERER PROGRAMMING**

### **Gaps or Potential Gaps in DV Offender Accountability Noted by Audit Team:**

- *While the state's administrative code on batterers' programming provides a good mission statement regarding offender accountability, there are not specific rules on when, how often, and with what kind of documentation compliance reviews are to take place nor the type and promptness of sanction for non-compliance. This leaves timing, documentation and sanctions open to interpretation, which makes a common philosophy on offender accountability within the local coordinated community response difficult.*

### **Authorizing Legislation**

The Tennessee Administrative Code has an entire 20-page chapter on rules for batterer intervention programs, with a section on systemic and offender accountability:

#### **0490-1-04 ACCOUNTABILITY**

- (1) Program accountability.
  - (a) Certified Programs are responsible for providing the criminal justice system with information related to a batterer's noncompliance with the Certified Program's contract, group rules, and other requirements so that the criminal justice system can impose any appropriate sanctions.
  - (b) Certified Programs shall invite a cooperative working relationship with local battered women's programs and Victim Advocates.
  - (c) Certified Programs shall establish procedures for consultations with the criminal justice system and other appropriate entities, including local battered women's shelters, for information sharing, mutual problem solving, victim safety, informing the criminal justice system, and making programmatic changes.
  - (d) Certified Programs shall establish clear and expeditious lines of communication with the justice system.
  - (e) Certified Programs shall participate in community-based efforts to stop violence against women and other domestic abuse victims and to hold batterers accountable.

- (f) Certified Programs shall compile adequate documentation that shall ensure continuity of interventions with batterers.
  - 1. Such documentation also may be used to establish a database for research purposes, provided that the maintenance of the data and the research based on the data are carried out in a manner that insures victim safety.
- (g) Certified Programs shall include in their programming, efforts that are aimed at preventing domestic abuse. Such efforts should include the following:
  - 1. The development of materials and programs aimed at increasing community awareness of domestic violence and of available resources; and
  - 2. Community efforts to reinforce the community's understanding of the need for and the support of batterer accountability.
- (2) Batterer accountability.
  - (a) Certified Programs shall be designed with the goal that batterers who complete the Certified Program shall:
    - 1. Stop abusive behavior.
    - 2. Hold themselves accountable for abusive behaviors.
    - 3. Recognize that domestic violence and other forms of coercive behavior are wrong.
    - 4. Recognize that they are solely responsible for their violence.
    - 5. Understand that abusive behavior has negative effects and consequences.
    - 6. Stop denying or minimizing their abusive behaviors.
    - 7. Stop any victim blaming.
  - (b) As critical components of batterer accountability, Certified Programs shall require batterers to do the following:
    - 1. Sign a contractual agreement with the Certified Program.
    - 2. Pay a fee for intervention services, except as follows:
      - (i) If a batterer is determined by the court to be indigent, the batterer may be required to make some form of restitution to the community in lieu of a fee; and
      - (ii) If the Certified Program is a jail-based program, the Certified Program may waive the fee or not assess a fee.<sup>117</sup>

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<sup>117</sup> Sec. 0490-1-.04, Tenn. Admin. Code.

### No Accountability for Offenders Who Know How to Work the System

Victims who participated in the victim focus groups indicated that some batterers have applied their skill of manipulating victims to controlling the system also:

- *"Some just get smarter after attending the batterer program."*
- *"I guess I've become the policeman. Can I call and tell the court that he isn't going to program? Would he know that it was me that called?"*
- *"I wish offenders could be supervised to ensure accountability for attending and participating in the program. Why can't someone follow these guys, like a probation officer? Why can't you be made to pay a fine for lying?"*

### Limited Resources for Holding Non-compliant Offenders to Account

As one can see from every other section in this report, practitioners interviewed and observed for this Audit commented on their perception that offenders got too many breaks or are not held accountable for violations of pretrial or probation conditions, including batterer programming. Some practitioners thought this could be due in part to increased court load having led to the decreased resource of time; and thus offenders cannot always be held accountable promptly. There were many stories throughout the audit of offenders failing to pay court costs, fines and fees to batterer programming, and not being held accountable for these delinquencies. Some Audit Team members thought the poor economy and loss of jobs may play a role: "They'd rather do the time than pay the fine." However, as noted in the Jail section in this report, jail also is a scarce resource in Knox County.

### Loose Connection with System about Compliance

Reviews of compliance with batterer programming ordered in the context of an order of protection were observed by Audit Team members who noted they were not held in a private area, which perhaps could influence the offender's and reviewer's willingness and ability to discuss personal or punitive information. This could be compounded by the fact that the reviewer is the offender's facilitator, which could further hamper objectivity. Team members also wondered about safety in this area, should a particular offender become irate or disruptive.

It was not clear how classes attended were documented – if the reviewer was speaking from memory or reviewed some type of record before reporting to the court.

Reviews are conducted every five months.

There are three certified batterer program providers in Knox County, but not all of them were represented at the review hearings observed by Team Members. It was not clear how a violation of an order related to a particular provider was then relayed to that provider.

Some offenders had been given several chances to get into compliance. For those that were not given another chance to comply, no warrant was issued for the offender and no mention was made of how or when that would take place. Several victims told team members that their abusers were permitted to close out their case after paying costs and fines, even though the batterer program had not been completed.

The Tennessee Administrative Code chapter on Rules for Batterers' Programs at the beginning of this section of the report contains a portion on compliance, but except for requiring batterer programs to report an offender's initial non-reporting to program within a week, other non-compliance reporting is not time-limited.

### **Recommendations:**

*To the extent that any recommendation needs research, initial contact with various practitioners, or other tasks, the Audit Team has expressed willingness to continue as a work group to help implement the recommendations of this report.*

### **Mission/Concepts and Theories**

The lingering issues from the 2000 Domestic Violence Safety and Accountability Audit that were evident in the Prosecution and Courts sections of this report also "pay themselves forward" to batterer programming. It is important, then, to recommend that representatives of batterer programs be included in some foundational discussion and work among key players in domestic violence (law enforcement, prosecution, advocacy, judiciary, probation and batterers programming) to clarify what common philosophy there is or should be on batterer accountability and to articulate a common mission related to batterer accountability that can be written and referred to in the future to ensure systemic accountability. This is important because recommendations repeated from past evaluative efforts and reports without resolving the underlying "sticking point" are not likely to be implemented. Trainings of participants who privately hold onto perceptions or beliefs at odds with other practitioners in their justice system – e.g., that nothing can be done about non-compliance with batterer programming – are not likely to be applied in practice or institutionalized in policy.

## Resource

The Audit Team recommends that appropriate representatives of law enforcement, magistrates, the District Attorney General's Office, courts, the Clerk of Courts' Office, batterer intervention programs and probation meet to discuss the viability of the position of "compliance monitor" that could:

- Monitor or oversee payment of court costs, fines, payments for programs, etc.
- Be a recipient of reports or complaints of violations, failures or delinquencies
- Be a tracker or locator of individuals who have become delinquent and have moved from their last address.
- Quickly process and walk through paperwork necessary for warrants or liens.
- For those individuals that are arrested and ask for a hearing on their non-payment, provide the supporting evidence of non-payment and be available to report to the court if requested.
- Be possible that such a position could eventually assist with other compliance areas that are often associated with domestic abuse, such as failure to pay child support.

The Family Justice Center has already expressed a willingness to apply for grant funding for such a position, should it be agreed to by Family Justice Center partners.

Examples of similar positions:

- A probation/protection order liaison stationed at a domestic abuse service center within the Hennepin County (Minnesota) Government Building to check for conflicts between conditions of probation and conditions of a protection order, check for any outstanding warrants regarding violations, etc.
- Witness security officers, contained within the Milwaukee County District Attorney's Office, have a case load of domestic violence cases where the offender has been identified as having a history of intimidating behavior. Officers investigate and document such history, can conduct some surveillance if necessary and do specialized safety planning with victims around up-coming court appearances.
- A former probation officer now attached to the Henderson (Nevada) City Attorney's Office supervises offenders on diversion agreements for domestic violence misdemeanors.

## HOW ARE DV OFFENDERS HELD ACCOUNTABLE IN KNOXVILLE AND KNOX COUNTY JUSTICE SYSTEM INTERVENTIONS?

### POINT OF OFFENDER ACCOUNTABILITY – PROBATION

#### **Gaps or Potential Gaps in DV Offender Accountability Noted by Audit Team:**

- ***The resources available to probation officers with which to hold domestic violence offenders accountable are limited:***
  - ***Caseloads of 100 are double or triple than that permitted in some other states, and severely limit a probation officer's time to supervise an offender.***
  - ***One JIMS terminal for 60 probation officers limits the access a probation officer has to check criminal history on probationers.***
  - ***No police reports, no protection orders and rare victim contact means probation officers are getting almost no contextual information about the offenders they supervise, which makes it almost impossible to assess risk and safety, assess appropriate programming, etc.***
- ***While there has been recent attention to domestic violence training for prosecutors, little to no domestic violence training in the past means probation officers do not have the same knowledge as other criminal justice partners, do not have the same opportunities to network and problem-solve, and do not have the same role as other criminal justice partners in the coordinated community response to domestic violence.***

#### **Overview**

The Board of Probation and Parole (BOPP) supervises felony offenders sentenced out of Knox County. BOPP supervises offenders on probation and parole. There is not a statutory felony domestic violence charge; so technically, BOPP staff is not supervising any offenders on these charges. But those who conduct pre-sentence investigations estimate they prepare one to three PSIs per month for offenders charged with aggravated assaults or other non-domestic violence charges which turn out to be domestic violence in nature once the facts are examined. It is more likely for BOPP to be supervising an offender for another offense and then see them arrested/charged with a domestic violence offense. A domestic violence charge is a mandatory violation. BOPP staff estimate that happens three times a month. It is not unusual for staff to have an offenders on caseload with domestic violence charges in their past.

As for parole hearings, officers handle grant hearings (letting an offender out of prison) and revocation hearings (putting them back in prison). The officers estimate grants at an extremely low level for a non-domestic charge that is actually domestic in nature – perhaps five per year. Revocations occur more often – perhaps twice a month. However, both officers noted it is almost never the actual domestic violence charge that sends offenders back to prison. Revocation requires only a preponderance of the evidence, and it only requires a guilty plea to one rule violation for an offender to be sent back to prison.<sup>118</sup>

County Probation supports the Knox County Judiciary to ensure that anyone assigned to misdemeanor probation complies with the conditions of probation. Probation officers supervise a caseload of approximately 2,500 people. Programs include: Drug and Alcohol Assessments, DUI Litter Pick Up Program, Community Service Program, and Misdemeanor Probation Service.<sup>119</sup>

County Probation did not separate out domestic assault charges from simple assaults through 2010 (they plan to track that beginning in 2011). As of November 8, 2010, there were 2,074 persons on county probation. 156 of these were on county probation for simple assault. The others were on probation due to drug charges, etc.<sup>120</sup> In 2009, 50% of all crimes against persons in Tennessee were domestic violence offenses<sup>121</sup> and so perhaps it would be fair to estimate that of those 156 individuals on probation in Knox County for simple assault, half of them are likely on probation for a domestic violence-related assault.

### Limited Resources

According to a probation officer observed and interviewed for this audit, “Probation officers are in a perfect position to hold offenders accountable because they can find out about the world the offender is living in.” However, other officers painted a picture of very limited resources with which probation officers can actually do this. Each officer has a caseload of at least 100 offenders. There is only one officer for the female-only caseload, which also has support group available for those female offenders who have experienced trauma. Team members observing an officer interview probationers noted the officer conducted six interviews in 90 minutes; this particular officer appeared able to maintain this pace by relating well to the probationers and yet applying tough, persistent, good-quality questioning skills.

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<sup>118</sup> Amanda Palmiter, e-mail message to author, March 16, 2011.

<sup>119</sup> “Probation,” Knox County, accessed January 10, 2011, <http://www.knoxcounty.org/probation/>.

<sup>120</sup> David Kitts, e-mail message to author, November 9, 2010.

<sup>121</sup> Supra, note 7.

There is only one JIMS terminal for 60 probation officers, who have to stand in line to check records. They can access only criminal, not civil, records. Offenders can fall through the cracks if they use an alias.

Probation officers do not get police reports. It is suggested that probation officers ask about orders of protection but if the officer does not bring it up in conversation, it does not get asked about. Officers do not know if the offender violates an order unless someone calls them.

When a case gets plea bargained to a regular assault, an offender can have a domestic violence history but is not on probation for domestic assault. Therefore, probation officers can send such clients to anger management programming instead of batterer intervention programming. Whichever, officers do follow up to make sure offenders complete their programming.

Probation officers do not proactively contact domestic violence victims. They only talk to victims when victims call upset about something or wanting to report something, and this contact is rare. Some officers have never heard of the Family Justice Center, much less how it might be utilized as a means of communicating with victims. BOPP staff do have a brochure of resources to give to domestic violence victims.<sup>122</sup>

Random drug tests are made on many probationers. Probation officers make home visits twice a week with no weapon, which can be dangerous. One of the probation officers interviewed for the Audit supervised some offenders under orders to maintain a curfew, so this officer did curfew checks on these offenders two nights a month, alone and unarmed.

Many of the probation officers have not had any training on domestic violence.

### Perception of Too Many Chances

BOPP has written policies on probation and parole revocations and a form on which to collect a victim impact statement. However, many practitioners interviewed for this Audit, and domestic violence victims who participated in the focus groups conducted for this Audit, had the perception that offenders are not held accountable for non-payment of costs and fines, as well as failures to complete batterer programming or other conditions. Quotes to that effect appear throughout this report and can be summed up by one from a practitioner who said, "Court has gotten so big, we don't always hold offenders accountable. They get many chances to comply with programs and pay fees."

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<sup>122</sup> *A Stronger Woman in Me*, Tennessee Board of Probation and Parole, collected January, 2010.



### **Recommendations:**

*To the extent that any recommendation needs research, initial contact with various practitioners, or other tasks, the Audit Team has expressed willingness to continue as a work group to help implement the recommendations of this report.*

### **Linkage**

The Audit Team recommends that Team members brainstorm other potential access to criminal history via criminal justice partners that could then be presented to probation and their partners for a short-term or temporary solution to the current wait for one terminal. For example, could someone be telephoned regarding particularly urgent situations? Could someone run some of the history checks at night?

The Audit Team that recommends probation meet with law enforcement and the Clerk of Court about the most efficient way to get police reports and protection orders to probation officers that are relevant to the domestic violence probationers they are supervising. This information is particularly important when the access to database information on history is scarce.

It would be inappropriate to recommend victim contact in a setting where there is almost no time to do it well. However, because victim contact can be such an important part of holding offenders accountable (history, new incidences of violence, reporting violations, etc.), the Audit Team recommends that probation explore with the Family Justice Center the possibility of utilizing them to be available for victim contact about probation issues.

### **Resource**

The Audit Team recommends that appropriate representatives of law enforcement, magistrates, the District Attorney General's Office, courts, the Clerk of Courts Office, batterer intervention programs and probation meet to discuss the viability of the position of "compliance monitor" that could:

- Monitor or oversee payment of court costs, fines, payments for programs, etc.
- Be a recipient of reports or complaints of violations, failures or delinquencies
- Be a tracker or locator of individuals who have become delinquent and have moved from their last address.
- Quickly process and walk through paperwork necessary for warrants or liens
- For those individuals that are arrested and ask for a hearing on their non-payment, provide the supporting evidence of non-payment and be available to report to the court if requested.

It is possible that such a position could eventually assist with other compliance areas that are often associated with domestic abuse, such as failure to pay child support.

It is also possible that such a position could be combined with other currently existing ones. BOPP instituted a batterer's intervention class – "Courage to Change" - which meets weekly. As of March 2011, the instructor stated that he has 10 offenders referred to the class, although he felt that there should be more. On any given day there were only three to four attendees. A handout for the class indicates "Offender accountability for abusive behavior has always been a priority for BOPP. This program gives BOPP another tool for use with this population of offenders."<sup>123</sup>

Whatever the case, the Family Justice Center has already expressed a willingness to apply for grant funding for such a position, should it be agreed to by Family Justice Center partners.

Examples of similar positions elsewhere in the country:

- A probation/protection order liaison is stationed at a domestic abuse service center within the Hennepin County (Minnesota) Government Building to check for conflicts between conditions of probation and conditions of a protection order, check for any outstanding warrants regarding violations, etc.
- Witness security officers, contained within the Milwaukee County District Attorney's Office, have a case load of domestic violence cases where the offender has been identified as having a history of intimidating behavior. Officers investigate and document such history, can conduct some surveillance if necessary and do specialized safety planning with victims around up-coming court appearances.
- A former probation officer now attached to the Henderson (Nevada) City Attorney's Office supervises offenders on diversion agreements for domestic violence misdemeanors. It is called "The Accountability Program."

### Training

The Audit Team recommends a training specifically for domestic violence probation for Knox County criminal justice practitioners. The American Association of Probation and Parole; the Training Project of Domestic Abuse Intervention Programs in Duluth, Minnesota; or Accountable Probation Responses in Michigan can provide training on:

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<sup>123</sup> Amanda Palmiter, e-mail message to author, March 16, 2011.

- The domestic violence probation officer's role in a coordinated community response
- Pre-sentence investigations of domestic violence offenders
- Victim contact
- Intake
- Reporting

### Training

The Audit Team has recommended that probation officers be included in the multi-disciplinary trainings recommended in other sections of this report.

## **SUMMARY**

The Audit Team worked over the course of twenty-two months conducting an institutional analysis exploring how domestic violence offenders are held accountable in the Knox County Civil and Criminal Justice System. The Team will continue to work to implement the recommendations of the report stated below in summary format.

### **RECOMMENDATIONS FROM THE SAFETY & ACCOUNTABILITY AUDIT REPORT OF 2010:**

#### **I. 911 CALL CENTER**

- 911 staff shall be included in future multi-disciplinary strangulation trainings.

#### **II. LAW ENFORCEMENT**

##### **Rules and Regulations**

- Refresh officers on existing policy, and provide aids to decision-making in more difficult cases.
- Support the Sheriff, Police Chief and District Attorney General in their already-existing efforts to pass legislation elevating the criminal act of strangulation to a felony.

##### **Administrative Practices**

- Create easy-to-use aids (printed or via computer) for other decision-making or documentation issues in domestic violence cases.

##### **Trainings**

- Conduct a multi-disciplinary training concerning the issues of probable cause, self-defense, predominant aggressor, dual arrest.
- Execute a multi-disciplinary training on strangulation investigation and prosecution.
- Organize a multi-disciplinary training concerning victim and witness intimidation.

##### **Linkage**

- Law enforcement partner with the District Attorney General's Office to give gone-on-arrival cases high priority when they include: (1) multiple high-risk factors, (2) suspects who are on probation or supervised release, or (3) chronic offenders.
- Law enforcement partner with the District Attorney General's Office to create a regular meeting with domestic violence investigators/supervisors and domestic violence prosecutors about dismissed cases that law enforcement would like to revisit in the hopes of holding repeat or dangerous offenders more highly accountable.

- Law enforcement partner with the Magistrates and the Detention Facility staff as to database or other electronic means of making bond condition information quickly available to victims and patrol officers.

### **III. WARRANT APPLICATION AND SETTING OF BOND**

#### Rules/Regulations

- Carry out specific types of training to address the differences in amounts of bond, conditions of release, views of dangerousness, importance of history, and observations related to notification of victims and officers.
- To help insure consistency, magistrates should review *Magistrate Benchbook: 2010* Published by the Tennessee Coalition against Domestic and Sexual Violence related to the previous issues.

#### Administrative Practices

- Magistrates to utilize bench cards and/or specialized forms that may help carry out policy, and collect/assess information on history and danger.

#### Trainings

- Concerning previous issues of policy, the trainings with magistrates on such issues should include law enforcement officers, victim advocates, prosecutors and judges.
- Provide a training to articulate concerns to bail bond company employees contacting victims on behalf of offenders who have been ordered not to contact them.

#### Linkage

- A magistrate should be designated as the point of contact for future questions from bail bond company employees.

### **IV. JAIL SYSTEM**

- Detention Facility staff be included in the pilot project on witness intimidation.
- The Audit Team should look further into claims by domestic violence victims that they were not notified when their abusers were released from jail.

### **V. PROSECUTION**

#### Mission/Concepts and Theories

- The key players in domestic violence (law enforcement, prosecution, advocacy, judiciary, probation and batterers programming) need to clarify what common philosophy there is or should be on batterer accountability.
- The stakeholders should articulate a common mission related to batterer accountability that can be written and referred to in the future to ensure systemic accountability.

### Rules and Regulations

- Identify the first kinds of cases to start prosecuting without victim participation.
- Follow up with Sessions Court judges to see if there is any movement toward a specialized court that would impact the rest of these recommendations.
- Support the Sheriff, Police Chief and District Attorney General in their already-existing efforts to pass legislation elevating the criminal act of strangulation to a felony.
- Consider revamping letter to victims that clarifies prosecutorial role and process, and places other information for victims in a separate brochure or flyer.

### Training

- Coordinate multi-disciplinary training (911, law enforcement, magistrates, prosecutors, probation and judges) to work through real case scenarios in order to: develop guidelines and agreements regarding excited utterances and other hearsay exceptions; getting and admitting recorded evidence such as 911 recordings, cell phone data, etc.
- Establish a multi-disciplinary training on strangulation investigation and prosecution.
- Arrange a multi-disciplinary training concerning victim and witness intimidation.
- Produce a multi-disciplinary training concerning the issues of probable cause, self-defense, predominant aggressor, and dual arrest.

### Linkage

- Law enforcement partner with the District Attorney General's Office to give gone-on-arrival cases high priority when they include: (1) multiple high-risk factors, (2) suspects who are on probation or supervised release, or (3) chronic offenders.
- Law enforcement partner with the District Attorney General's Office to create a regular meeting with domestic violence investigators/supervisors and domestic violence prosecutors about dismissed cases that law enforcement would like to revisit in the hopes of holding repeat or dangerous offenders more highly accountable.

## **VI. COURT**

### Mission/Concepts and Theories

- Clarify among key stakeholders what common philosophy there is or should be on batterer accountability.
- Articulate a common mission related to batterer accountability that can be written and referred to in the future to ensure systemic accountability.
- The same sort of mission related to offender accountability be extended to places victims must wait to speak or provide information.

### Rules and Regulations

- Create a specialized court or docket that handles both the criminal and civil cases arising out of domestic violence between the parties.
- Re-examine law and policy regarding subpoenaing all witnesses to each court appearance.
- Build representation for petitioners in order of protection cases where petitioners request respondents' firearm possession be prohibited.
- Regarding the overwhelming order of protection caseload, review whether orders are the appropriate remedy for all situations. For example, review with attorneys as to whether they may be recommending them for clients unnecessarily.

### Training

- Educate relevant practitioners about courtroom and waiting area issues and appropriate responses.
- Meet with judges about courtroom decorum and provide them with information from the battered women focus groups.

### Resources

- Consider the utilization of volunteers in places victims wait for court appearances.
- Work with courts and law enforcement to create a courtroom/court hall monitor.
- Utilize advocates as liaisons with the system to discuss complaints of when defendants seem to be going beyond what is appropriate.
- Work with courts to explore and identify privacy resources available in or near courtrooms/court halls.
- The appropriate representatives of law enforcement, magistrates, the District Attorney General's Office, courts, the Clerk of Courts office, batterer intervention programs and probation meet to discuss the viability of the position of "compliance monitor" that could monitor the payment of court costs, receive complaints of violations, locate delinquent individuals, quickly process paperwork for warrants or liens, etc.

## **VII. BATTERER PROGRAMMING**

### Mission/Concepts and Theories

- Include representatives of batterer programs in some foundational discussion and work among key players in domestic violence law enforcement, prosecution, advocacy, judiciary, probation and batterers programming, to clarify what common philosophy there is or should be on batterer accountability.
- Articulate a common mission related to batterer accountability that can be written and referred to in the future to ensure systemic accountability.

### Resource

- Recommend that appropriate representatives of law enforcement, magistrates, the District Attorney General's Office, courts, the Clerk of Courts Office, batterer intervention programs and probation meet to discuss the viability of the position of "compliance monitor."

## **VIII. PROBATION**

### Linkage

- Audit Team members are to brainstorm other potential access to criminal history via criminal justice partners that could then be presented to probation and their partners for a short-term or temporary solution to the current wait for one terminal. (For example, could someone be telephoned regarding particularly urgent situations? Could someone run some of the history checks at night?)
- Probation to meet with law enforcement and the Clerk of Court about the most efficient way to get police reports and protection orders to probation officers that are relevant to the domestic violence probationers they are supervising.
- Probation need to explore with the Family Justice Center the possibility of utilizing them to be available for victim contact about probation issues.

### Resource

- Representatives of law enforcement, magistrates, the District Attorney General's Office, courts, the Clerk of Courts Office, batterer intervention programs and probation will meet to discuss the viability of the position of "compliance monitor."

### Training

- Construct a training specifically on domestic violence probation for Knox County criminal justice practitioners concerning pre-sentence investigations of domestic violence offenders, victim contact, intake and reporting.
- Probation officers be included in the multi-disciplinary trainings recommended in other sections of this report.