

# What Courts Should Know About Probation Supervision of Domestic Violence Offenders

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by Jenna Smith and James Henderson

Center  
for  
Court  
Innovation

## Authors

**Jenna Smith**

Center for Court Innovation

## Contributor

**James Henderson**

Domestic Violence Probation Trainer and  
Technical Assistance Provider

## Acknowledgments

This publication was supported by Grant No. 2017-TA-AX-K040 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, or recommendations expressed in this publication are those of the speakers and do not necessarily reflect the view of the Department of Justice, Office on Violence Against Women.

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August 2021

# Introduction

Domestic violence cases involve serious safety concerns that make monitoring compliance especially difficult. Offenders may continue to harass, coerce, and abuse their intimate partners without the knowledge of the justice system. For courts seeking to ensure compliance and support behavior change among people who abuse their partners, strong communication and collaboration with probation departments is key. Probation officers are uniquely positioned within the criminal legal system in that they are one of the few practitioners that have an ongoing relationship with the offender. Their access to critical information can support judges in making informed decisions regarding safety and accountability.

The information in this guide comes from James Henderson, a national speaker and trainer with 25 years of experience in the field of abuse, trauma, and recovery. He was a probation officer of domestic violence offenders in Ann Arbor, Michigan from 1991 to 2010 and has been the director of a men's program addressing intimate partner violence and fatherhood in the Detroit metropolitan area since 1995.

This guide discusses what courts should know about specialized probation for domestic violence offenders, providing a series of questions that courts can ask and offering recommendations.

# Recommendations

## 1. Risk Assessment: Does the probation department have the tools it needs to understand lethality risks?

General risk-needs assessment tools for use with criminal defendants do not address many of the indicators of a high level of risk in domestic violence situations. As such, offenders who score low on a general risk tool can pose a high homicide risk as it relates to domestic violence.

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« *What does supervision look like in that department? Will it look different for a domestic violence offender than it will for a shoplifter? How will it look different? Is probation doing a risk-needs assessment, and does that assessment actually capture risk as far as domestic violence?*

— James Henderson, probation trainer and technical assistance provider

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- Meet with the probation department and discuss what assessment tools they use. Ask whether the tools are specific to domestic violence. If not, work together with your coordinated community response team to implement a domestic violence risk-needs assessment process.
- Determine how the probation department will share domestic violence-specific risk-needs information with the court and how the court will use that information.

- Create a process for the court to share risk information with probation that can inform their assessment process, such as police reports, criminal records, and protective orders.

## 2. **Information Sharing and Systems Collaboration: Does the probation department have the information it needs to promote accountability?**

Probation departments need access to the right information in order to promote accountability and meaningful change. Safely sharing information reduces the ability of abusive partners to manipulate the system and signals to them and to victims that the court is paying attention, knows when violations occur, and will respond accordingly.

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« *One of the things that I think we can do a better job [with] is modeling a coordinated community response in open court.*  
— James Henderson, probation trainer and technical assistance provider

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- Find out what information the probation department currently has access to and whether it includes the ability to conduct background checks and view criminal and civil orders of protection that are past, current, or pending, regardless of whether it's the same victim in the case.

- Ask if probation departments have access to 911 call tapes. These tapes provide important information for probation officers in understanding the context of the event that led to an arrest and why a victim may have felt fearful enough to call the police.
- Learn what information abusive partner intervention programs provide probation departments and whether they permit officers to sit in on classes. In many jurisdictions, courts require that programs permit observers, such as probation officers, victim advocates, and court staff. This helps ensure that programs are providing adequate services and also allows system stakeholders to better understand and reinforce what is being taught, further reducing an abusive partner's ability to manipulate the system.

### 3. **Specialized Monitoring Practices: Does the probation department monitor domestic violence offenders differently to account for the dynamics of abuse and coercive control?**

The dynamics of domestic violence present a unique set of considerations in supervising offenders. Probation officers need special knowledge and training to monitor domestic violence offenders safely and effectively.

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- « *What clients need to know is that there is consistency in the court, that we're not all over the board based on your race, based on your income, based on the attorney that you have, but that it's really based on if you commit these crimes.*
  - James Henderson, probation trainer and technical assistance provider

- Ask how your local probation department supervises domestic violence offenders differently from other offenders.
- Ask how high-risk domestic violence offenders are supervised. In some departments, these high-risk clients may be seen multiple times a week through a combination of abusive partner intervention programming and officer contact, for example.
- Learn what training probation officers receive on domestic violence dynamics. In many communities, local victim advocates train probation officers. In fact, some mandate that their officers participate in the same 40-hour training that advocates receive. Such training includes information on lethality risk factors and safety planning. This knowledge can then improve the information officers share with the court, highlighting specific concerns that relate to safety and compliance.
- Learn what specific procedures the department has regarding firearms, given their association with risk of lethality. What protocols does the department have regarding probation inquiring about and searching for firearms? How do they confiscate and remove firearms and then what do they do with them? Ask whether officers receive training on the state and federal laws that allow for such seizure.

#### 4. **Contact with Victims: Does the probation department center survivor voices?**

Given the dangerousness and complexity of cases involving domestic violence, it is important for probation officers to have victim contact where possible. Not every victim trusts or feels safe speaking with criminal legal practitioners, but probation officers should share their contact information regardless. A victim who is initially unwilling to communicate may reach out months later. Probation departments can also create partnerships with local victim advocacy agencies, who can conduct victim outreach for the probation department while maintaining confidential conversations with the victim.

Victim contact is important because it provides information to officers about domestic violence dynamics unique to the family, such as the history of violence and abuse, safety risks and needs, stressors, and the impact of the violence on adult victims and children. Probation officers should take into account how the response of the criminal legal system will impact the victim and the family and make decisions with the victim's well-being at the forefront.

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« *I really like an opportunity to talk to the person who was the identified victim in that particular case, try to figure out the context of the violence. What's going on in this family? What types of behaviors has this offender engaged in that could create heightened risk or lethality for that particular victim? And then I want to talk to that person about my*

*recommendations to the judge. Can we talk about how these impact you? If I do this, will it make life more dangerous?*

— James Henderson, probation trainer and technical assistance provider

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- Find out if probation officers receive training on trauma-informed interviewing. Speaking with a victim is different than speaking with an abusive partner. A probation officer's goals shift to listening and learning from a victim while providing information and education, as opposed to interrogation or telling them what to do.
- Explore recommendations with the victim, finding creative ways to promote offender compliance while thinking holistically about the family's needs. Consider the following examples:
  - *A violation that would normally result in jail time but jeopardizes the abusive partner's continued employment may not be the best course of action when the abusive partner is the sole financial provider for the family, especially given the fact that recent unemployment is a significant risk factor for lethality. In such a situation, the probation officer might recommend to the court that the abusive partner be jailed outside of employment hours.*
  - *An abusive partner smoking marijuana may not present a specific safety concern for the victim and family, whereas*

*perhaps alcohol use would. Where the probation officer knows the specifics of the family dynamics and risks, the criminal legal response can be tailored.*

**5. Compliance Reviews: Does the court conduct compliance reviews staffed by the probation department?**

Compliance reviews are an invaluable tool for judges. Such reviews are regular hearings for offenders, in which the probation officer is ideally present to report on progress and compliance with court orders or shares written progress reports. These judicial compliance reviews are important because they reinforce the probation reviews the officer may be conducting separately with offenders as part of the probation sentence. While these reviews take more time at the outset, judges who use them report that they improve outcomes and reduce court costs in the long-term. Similarly, probation officers find they lead to better compliance and more efficient handling of cases. At the reviews, updates may include: whether offenders have enrolled in court-mandated abusive partner intervention programming and other mandated services; whether they are attending classes and/or treatment; and whether they are paying restitution and child support.

Virtual compliance reviews may supplement or substitute for in person reviews as needed. In response to COVID-19, many communities conducted virtual reviews and saw improved attendance as a result. Some courts have even set up locations where offenders can use a computer to access hearings.

- « *It also lets a victim sitting in the courtroom, even if it's a victim on a different case, what she knows is that the court is going to be checking with all these community partners. We're able to show that the community is coming together to try to create policy and practice that actually enhances safety. For a victim sitting there, she sees that we came together for her protection. If she wasn't there, but another victim was there, she's still watching and listening...That builds some confidence in victims that we're going to do the right thing, and not harm them. It also sends a message to the offender that the community is coming together to work with them to promote change, but we're also watching [them] and we're all talking. We're sharing information.*
- James Henderson, probation trainer and technical assistance provider
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- Hold regular compliance reviews for domestic violence cases.
- Staff the compliance reviews so that the probation officer on the case participates in person. This ensures more accurate information and limits the abusive partner's ability to manipulate different parts of the system. The probation officer will likely have the most current and accurate information, including, for example, if a violation happened over the weekend. The officer will also be able to address or challenge abusive partners should they deflect responsibility or make excuses for non-compliance.

## Related Resources

### [In Practice: Taking a Holistic Approach with Domestic Violence Offenders](#)

Domestic violence cases present challenges to probation departments. Supervising and monitoring offenders requires an understanding not only of the dynamics of domestic violence but the crime's impact on the entire community. For this episode of In Practice, Rob Wolf speaks with James Henderson, a former probation officer and a consultant with the Battered Women's Justice Project, and Aeron Muckala, a corrections agent for the Minnesota Department of Corrections in Bemidji, Minnesota. They discuss how probation departments are meeting the challenges of these difficult and often high-risk cases.

### [10 Things Courts Should Know About Their Local Intervention Programs for Abusive Partners](#)

This two-page handout is designed for courts that include programming for abusive partners in their case dispositions. It lists the 10 most important questions court staff should ask as they consider making referrals and provides general information on national best practices.

### [Guiding Principles for Abusive Partner Intervention and Engagement](#)

For decades, the idea that "nothing works" dominated the conversation around rehabilitating domestic violence offenders and little credence was given to the idea of changing behavior through education and judicial oversight. Today, while the link between courts and offender intervention programs is well-established, debate continues about what

actually works. However, a growing body of evidence suggests that programs can improve outcomes by incorporating comprehensive assessments that gauge level of risk, trauma, hope and other needs; cognitive-behavioral learning strategies; and accountability mechanisms that reflect and value culture and community and incorporate self-reflection.

[Resources around our Guiding Principles](#)

## Contributor

**James Henderson, domestic violence probation trainer and technical assistance provider**

James E. Henderson Jr. MSW, CAC-R, is an experienced probation officer and national speaker available to provide training on probation practice with domestic violence and stalking offenders. From 1991-2008, Henderson was a probation officer responsible for overseeing the policies and practices of Intensive Probation for Domestic Violence Offenders in Ann Arbor, Michigan. He was assigned to the Washtenaw County Domestic Violence Unit as part of the Judicial Oversight Demonstration Initiative from 1999 to 2005, and works from a system perspective to enhance victim's safety and defendant accountability. In addition, he has provided abusive partner intervention within the Detroit metropolitan area since 1995. Before joining the criminal justice system in 1993, he worked as the clinical director of Straight, Inc., a family-oriented substance abuse program for drug-using young people and their families. In 1998, Henderson was

appointed by the Mayor of Ann Arbor to serve on the Ann Arbor Domestic Violence Coordinating Board. He has served two terms as a Regional Representative for the Batterer Intervention Services Coalition of Michigan and has been active with them since 1997. He has also been an active member of the Arab American Domestic Violence Coalition from 2001-2006. Henderson has been a Certified Addiction Counselor II since 1987 and an Internationally Certified Alcohol and Drug Counselor since 1990. He received his Master's degree in Social Work from the University of Michigan in 1995.



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520 Eighth Avenue

New York, NY 10018

p. 646.386.3100

[courtnnovation.org](http://courtnnovation.org)