

Pretrial Responses to Intimate Partner Violence | Notes from the Field

Within the context of a national movement toward pretrial reform—including reduced reliance on pretrial detention and money bail, and a push for data-driven decision-making—intimate partner violence (IPV)¹ poses a challenge to jurisdictions across the country seeking to weigh the goals of reform against potential risks to survivor safety.² The current study explores how jurisdictions already engaged in pretrial reform efforts maneuver this balance in their day-to-day operations.

Specifically, this document presents findings from five in-depth case studies. In it, we highlight some of the unique practices undertaken across these sites, in hopes that they may prove instructive for other jurisdictions seeking to promote survivor safety while simultaneously reducing over-reliance on pretrial detention. A comprehensive summary of full study findings, along with resultant recommendations for policy and practice, is available in the companion piece, *Advancing Alternative Legal Responses to Intimate Partner Violence in the Era of Pretrial Reform*.

The Five Sites

To identify case study sites, we drew from our own networks, targeting jurisdictions known to be involved in general pretrial reform efforts.³ We screened potential sites for eligibility through an initial telephone interview. Selection criteria included the current stage of pretrial reform efforts, implementation of IPV-specific protocols, ability to support a site visit, and geographic diversity. The final case study sites include Ada County, Idaho; Buncombe County, North Carolina; the state of Connecticut; Denver, Colorado; and Lucas County, Ohio.

Additional Considerations

In reviewing the practices documented in the following case study notes, we wish to remind readers of two things. First, none of these practices occur in a vacuum. In each site, the people we spoke with provided historical policy and cultural contexts that shaped their existing approach, unique current practices, and anticipated future directions. Nearly universally, interviewees attributed a shift in how seriously IPV cases are handled in their community to one or more factors: a specific high-profile case, a resource-rich community, changes in IPV-related legislation, pressure to adopt pretrial reform, and/or community pressure to improve responses. It is with this in mind that we reiterate the importance of local context. What works in some jurisdictions will not apply in others. We present the practices below as examples of *some* of the possibilities jurisdictions have identified in their efforts to balance survivor safety and pretrial reform. In all communities, local capacity, resources, and political climate are likely to influence what is feasible.

Second, while some of the practices adopted by the case study sites are supported by research, in general, there is a lack of evidence to document the effectiveness of the IPV-specific practices being implemented across these sites. Even practices with supporting evidence in the general research literature (e.g., application of RNR theory) need to be validated with an IPV-specific population.

1. The terms “intimate partner violence” and “domestic violence” are often used interchangeably. Throughout this brief, we opt for the former term, as it less ambiguously excludes violence between non-intimate family members.
2. Both the terms survivor and victim are frequently used to describe those who have been harmed through IPV. We have opted for the terminology of survivor throughout this brief, except when referring specifically to advocates, who have historically been described as victim advocates.
3. In addition to Center for Court Innovation staff, this included outreach through the National Association of Pretrial Service Agencies listserv, Arnold Venture’s Advancing Pretrial Policy and Research network, and the John D. and Catherine T. MacArthur Foundation’s Safety and Justice Challenge community.

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Pretrial Responses to Intimate Partner Violence | Notes from Ada County, Idaho

As part of our exploratory examination of legal responses to intimate partner violence in the era of pretrial reform, the Center for Court Innovation conducted a series of case studies across five sites. This fact sheet describes some of the unique practices undertaken in Ada County, Idaho, in hopes that they may prove instructive for other jurisdictions seeking to promote survivor safety while simultaneously reducing over-reliance on pretrial detention.

Ada County has undertaken pretrial reform over the past several years through the implementation of a general risk assessment tool (the Idaho Pretrial Risk Assessment Instrument or IPRAI) and a commitment to reduce its jail population through the MacArthur Foundation's Safety and Justice Challenge.¹

Recent legislative changes in the state establish the right to bail or release on own recognizance in non-capital cases and require a no contact order to be issued in cases of domestic violence.²

Initial Law Enforcement Response

In all cases involving allegations of intimate partner violence (IPV), officers conduct the Idaho Risk Assessment of Dangerousness (IRAD) on site. IRAD results are shared with the prosecutor, victim witness coordinator, and defense attorneys.

Within 24 hours of an arrest, the victim witness coordinator connects with the survivor to share referrals, resources, and other case-related information. Resources may include the Women's and Children's Alliances and FACES of Hope Victim Center.³

Arrestment

In Idaho, law enforcement has limited ability to arrest on misdemeanor charges.⁴ In IPV cases

in which an arrest is made, within 24 business hours, the individual charged appears in court for arraignment, probable cause determination, and a release decision. A no contact order is issued for all IPV cases in which an arrest is made.

The court introduced video arraignment in response to COVID-19. Site representatives reported that increased survivor engagement was an unanticipated benefit of remote appearances. Interviewees attributed this change to the anonymity afforded survivors as well as the relative ease of attending remote hearings (e.g., reduced need to miss work or secure childcare). However, interviewees also reported that remote court and COVID-19 negatively impacted relationship building between defense attorneys and clients.

Pretrial Decision Making

Pretrial service representatives administer the IPRAI for all arrested individuals prior to arraignment and assessment results inform bail decisions. In IPV cases, condition decisions may also be informed by results from the IRAD, which is a DV-specific tool, designed to predict both lethal and non-lethal harm and is administered by the responding officers.

There are two primary release options in Ada County: (1) released with a \$0 bail and supervision (overseen by the sheriff's office) or (2) bail

amount set with no supervision, but with the option for judge-ordered drug testing, GPS, and/or alcohol monitoring.

Domestic Violence Court (DVC)

Currently, city and county prosecutors send all eligible misdemeanor cases to the specialized domestic violence court (DVC). Cases in which no arrest is made proceed directly to the DVC. Felony cases disposed at the misdemeanor level through a plea offer are also eligible to have post-disposition hearings and sentencing in the DVC.

The DVC draws on a collaborative model, bringing together stakeholders from across agencies. This collaborative approach informs the pretrial process for those cases transferred to the specialized court early.

1. Read more about the Safety and Justice challenge at safetyandjusticechallenge.org.
2. Full details of the 2017 Idaho Criminal Rule 46 and Idaho Criminal Rule 46.2 are available at isc.idaho.gov/icr46 and isc.idaho.gov/icr46-2.
3. Faces of Hope Victim Center was previously called FACES Family Justice Center. The center still effectively operates as a family justice center. The name change reflects a desire for accessibility for all individuals, not just families. Additional information is at facesofhopevictimcenter.org.
4. The Idaho Supreme Court decision in *State v. Clarke* (165 Idaho 393, 446 P.3d 451, 2019) limits the ability of law enforcement to make an arrest for misdemeanor offenses that the officer did not witness themselves.

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Pretrial Responses to Intimate Partner Violence | Notes from Buncombe County, North Carolina

As part of our exploratory examination of legal responses to intimate partner violence in the era of pretrial reform, the Center for Court Innovation conducted a series of case studies across five sites. This fact sheet describes some of the unique practices undertaken in Buncombe County, North Carolina, in hopes that they may prove instructive for other jurisdictions seeking to promote survivor safety while simultaneously reducing over-reliance on pretrial detention.

Buncombe County has undertaken pretrial reform over the past several years through the implementation of the Pretrial Risk Assessment (PSA) and a commitment to reduce its jail population through the MacArthur Foundation's Safety and Justice Challenge.¹

Specialized Response

The county's coordinated community response (CCR) team brings together diverse stakeholders who seek to inform local practice through evidence based best practice models from across the country.

The Buncombe County District Attorney's office has dedicated staff attorneys who specialize in domestic violence.

The Domestic Violence Fatality Review Team brings together a broad range of service providers to review previous IPV homicides within the county and develop strategies to improve system responses.

Law Enforcement Response

Law enforcement officers receive training through the family justice center and are encouraged to identify a primary aggressor in IPV cases.

When an arrest is made, law enforcement arrests the party identified as the primary aggressor.

Law enforcement draws on the Lethality Assessment Program (LAP) model.² Those survivors determined to be high danger (based on the severity of allegations and assessment score), are linked with a local crisis response organization that can make immediate service referrals and connections.³ Referrals may include outreach to the local family justice center (FJC).⁴

Release Decisions

Bond must be set within 48 hours in all IPV cases. Bond determinations are informed by the current charges, PSA results, a pretrial report, ties to the community, ability to pay, and survivor feedback (typically communicated by an advocate).

Interviewees reported that release in IPV cases commonly includes secured bond with release conditions, with supervision requirements reflecting assessed risk and severity of the current incident.

Post-Release Monitoring

A dedicated sheriff's victim advocate stays in touch with survivors throughout the life of

the case, including updates on release, court dates, and any new arrests. The sheriff's advocate may also provide information about available resources.

A cross-agency group of system stakeholders participates in weekly case conferences for those IPV cases that are deemed particularly dangerous or serious. During these conferences, the group exchanges any new information about the cases, including release, conditions, and compliance.

Protective Orders

A no contact order is issued along with the release order in all IPV cases. Additionally, survivors have the option to file a domestic violence protection order (DVPO), which includes a firearm relinquishment.⁵

Survivors can request a DVPO 24 hours a day, seven days a week. A representative from the sheriff's office serves DVPO notice to the individual charged with IPV within hours, as long as they live within Buncombe County.

Even if prosecutors decline to file charges, individuals may pursue a misdemeanor charge based on a statement from the survivor. In addition, survivors can file for a temporary ex parte order, which stays in effect until the full court hearing (typically ten days of the order being issued).

Supporting Survivors

Buncombe County is home to several community organizations that provide survivor support.

- VOICES offers survivors a space to build community with one another, advocates for survivor voice in major policy decisions, and facilitates leadership positions for survivors—for instance, in the initial development of the family justice center and the local CCR.
- Umoja Health, Wellness, and Justice Collective seeks to address the root cause of IPV by creating a community of connections and culturally responsive services for survivors and those charged with IPV in the past. Umoja emphasizes healing and resiliency.⁶
- The Buncombe County Family Justice Center provides wrap-around services in one location

and seeks to create a space for survivors to begin their journey towards hope, healing, and safety.

In addition to survivor support, the Buncombe County Justice Resource Center offers case management for justice-involved individuals (directly or indirectly) and provides case management and linkages to community resources.⁷

1. Read more about the Safety and Justice challenge at safetyandjusticechallenge.org.
2. This program was initially developed in Maryland and draws on Dr. Jacqueline Campbell's research. The approach is multi-pronged and incorporates a lethality assessment instrument and specialized response for survivors deemed to be at highest risk. The LAP has been identified by the US Department of Justice as a "promising practice." More information on the approach is available at mnadv.org/lethality-assessment-program/lap-program-overview/.
3. More information is available at helpmateonline.org/.
4. More information is available at buncombecounty.org/governing/depts/justice-services/programs-services/family-justice-center.aspx.
5. A domestic violence protective order may also be referred to as a restraining order or a 50B order, referencing NC G.S. 50B. See ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_50b.html.
6. More information is available at umojahwj.org.
7. More information available at buncombecounty.org/governing/depts/justice-services/programs-services/justice-resource-center.aspx.

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Pretrial Responses to Intimate Partner Violence | Notes from Connecticut

As part of our exploratory examination of legal responses to intimate partner violence in the era of pretrial reform, the Center for Court Innovation conducted a series of case studies across five sites. This fact sheet describes some of the unique practices undertaken in Connecticut, in hopes that the state may prove instructive for other jurisdictions seeking to promote survivor safety while simultaneously reducing over-reliance on pretrial detention.

Connecticut has undertaken statewide pretrial reform, including in cases involving intimate partner violence (IPV).¹

Initial Law Enforcement Response

Police across the state receive training on domestic violence as stipulated by the 1986 Family Violence Prevention and Response Act.

Many local police departments have a dedicated Domestic Violence (DV) unit that responds to calls where there are IPV concerns. Police dispatch advises responding officers about existing protective orders and whether anyone in the home has a registered firearm.

All police officers are trained to conduct an 11-question lethality assessment screen with the survivor, as a part of the lethality assessment program (LAP).²

High-risk situations, identified by the on-scene LAP, initiate an immediate triage response. Officers connect high-risk survivors to the local family justice center and/or victim advocate resources while still on scene.

Initial Bond Recommendation

Bond recommendations are made by the bail commissioner based on statewide guidelines. However, police officers may request an override to bail recommendations or additional release conditions based on the results of the on-scene LAP. Prosecutors are not obligated to follow these recommendations.

Pre-Arrestment Screening

The Family Services Unit of the Court Support Services Division conducts a pre-arrestment screening for all cases, which includes the DVSI-R risk assessment tool and the Supplemental Risk Indicators (SRI) to help assess the level of danger posed to IPV survivors.³

Family Services use assessment results to make recommendations to the court about (1) appropriate type of protective order; (2) eligibility for further assessment and programming for those charged with IPV; and (3) additional release conditions for those charged, including services and/or GPS monitoring.

Survivor Voice

Survivors who wish to speak directly to the court are given the opportunity to do so; victim advocates may speak on the behalf of survivors who do not wish to appear in court. With survivor permission, advocates may share results of the SRI, conducted from the survivor's perspective, with the court.

Survivor feedback and assessment results may inform judicial and prosecutorial decisions made at arraignment, including those regarding release and conditions.

Pretrial Diversion

After arraignment, Family Services conducts separate interviews with survivors and those charged with IPV. Cases are typically resolved through one of three possible methods: diversion, traditional prosecution, or a third option (*nolle prosequi*) which allows the court to impose conditions (e.g., protective order, substance use or mental health treatment) and results in ultimate dismissal after 13 months if there are no new arrests.

Those who are charged with IPV and deemed appropriate for diversion⁴ are either mandated to the nine-week Family Violence Education Program (FVEP) or receive monitoring for compliance with protective orders and other release conditions (e.g., mental health or substance use treatment).

Those who enter FVEP are given up to one year to complete the program. Upon successful program completion and continued compliance with protective orders and any other required treatment, charges are typically dismissed.

1. In Connecticut, intimate partner violence falls under the broader umbrella of family violence, which includes any physical violence or threat of violence between people related by blood, residing in the same household, or in a dating relationship.
2. The Connecticut lethality assessment program is fashioned after the model developed by Jacquelyn Campbell and implemented in Maryland. For more information, see ctlap.org/Documents/LAP-2018-2019-Update.pdf.
3. To complete these risk assessments, counselors use information from: (1) a statewide criminal database; (2) Family Services' statewide database; (3) a statewide protective order registry; (4) a national domestic violence registry; (5) civil court(s); (6) interviews with those charged with IPV (detained and released); and (7) input from victim advocates.
4. Diversion is generally reserved for first-time offenders charged with a misdemeanor who have not previously participated in a family violence program. Diversion decisions may also be informed by the results of the DVSI-R assessment.

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Pretrial Responses to Intimate Partner Violence | Notes from the City and County of Denver

As part of our exploratory examination of legal responses to intimate partner violence in the era of pretrial reform, the Center for Court Innovation conducted a series of case studies across five sites. This fact sheet describes some of the unique practices undertaken in the City and County of Denver, Colorado, in hopes that the city and county may prove instructive for other jurisdictions seeking to promote survivor safety while simultaneously reducing over-reliance on pretrial detention.

Connecticut has undertaken statewide pretrial. Colorado has undertaken statewide pretrial reform over the past several years, including efforts specifically targeting cases of intimate partner violence (IPV) in the City and County of Denver.

Initial Law Enforcement Response

Colorado has mandatory arrest in cases involving IPV allegations. Law enforcement officers administer the Ontario Domestic Assault Risk Assessment (ODARA) on scene in all IPV-related incidents. Police then connect survivors to an onsite police victim advocate, who links them to additional resources, including the local family justice center.¹

The Denver Police Department has a specialized investigative unit dedicated to domestic violence. For high-risk cases, law enforcement, survivors, and/or a family/household member can file an Extreme Risk Protection Order (ERPO),² which prohibits the alleged perpetrator from possessing, controlling, purchasing, or receiving a firearm for 364 days.

Post-Arrest Assessment

While an individual is in custody, pretrial services conduct a general risk assessment, the Colorado Pretrial Assessment Tool (CPAT), for all who are willing, as well as the Risk & Needs Triage (RANT) to assess resource needs for those deemed to be high risk (i.e., levels 3 and 4 on the CPAT).

Release Decisions

The initial court appearance typically occurs within 72 hours of an individual being taken into custody.

Representatives from pretrial services, the prosecutor's office, and the public defender's office meet daily to develop release recommendations for those detained on IPV cases, including bond amount, release conditions, and protective orders.

Recommendations are informed by results from the ODARA, CPAT, RANT, and the individual's history of domestic violence charges.

Most individuals facing IPV charges are released with conditions. Common conditions include pretrial supervision and GPS monitoring.

Supervision intensity varies by risk level, with most IPV cases falling in either Level 2 or Level 3. Level 2 requires in-person check-ins every two weeks; Level 3 requires a minimum of 60 days of GPS monitoring.³ GPS is generally only ordered in high-risk cases with multiple prior IPV charges.

Misdemeanor IPV cases are not eligible for personal recognizance bonds, but most are released on bond (potentially as low as five dollars). Those facing felony IPV charges *might* receive a personal recognizance bond if the prosecutor feels there is insufficient evidence.

Victim Advocates

Advocates from across several agencies assist survivors through the process, including advocates from the police department, pretrial services, and the city and county prosecutors' offices, as well as community-based advocates. Advocates work together to keep survivors up to date with the aim of ensuring a smooth transition across the life of the case.

A domestic violence triage team consists of advocates from across agencies to ensure timely supportive services for survivors. The team meets three times a week to review cases deemed high risk from the past 24 hours. During triage sessions, the team discusses how best to support survivors and respond to the needs of the accused.

Other Specialized Responses

The prosecutor's office developed a specialized Family Violence Unit with dedicated staff attorneys assigned after the initial court appearance for those charged with a felony.⁴

The Denver PD has a DV Prevention Program. Three dedicated prevention detectives connect with those previously charged with IPV to offer services and support, with the goal of reducing risk factors for a potential re-offense.

The firearms relinquishment program enables the prosecutor's office to require that alleged perpetrators relinquish all firearms.

1. More information is available at roseandomcenter.org/.
2. More information is available at leg.colorado.gov/bills/hb19-1177.
3. Level 1 supervision (administrative) requires regular remote check-ins and after-court check-ins. Those deemed to be Level 4 are not eligible for release.
4. The Family Violence Unit handles IPV cases as well as other types of family violence. More information is available at denverda.org/domestic-violence/.

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Pretrial Responses to Intimate Partner Violence | Notes from Lucas County, Ohio

As part of our exploratory examination of legal responses to intimate partner violence in the era of pretrial reform, the Center for Court Innovation conducted a series of case studies across five sites. This fact sheet describes some of the unique practices undertaken in Lucas County, Ohio, in hopes that they may prove instructive for other jurisdictions seeking to promote survivor safety while simultaneously reducing over-reliance on pretrial detention.

Lucas County, Ohio has participated in the MacArthur Foundations Safety and Justice Challenge¹ since 2016, illustrating local commitment to reform and reduced reliance on jail.

Specialized Response

The Toledo Police Department has a 24-hour Crisis Response Team (CRT) that provides specialized domestic violence responses. In the first 48 hours after an incident, representatives from the CRT provide survivors with (a) information about and referrals to available services and resources, (b) short-term crisis intervention, and (c) information about involvement in the criminal justice system.

Additionally, the prosecutor's office has historically included a Domestic Crimes Unit, staffed by prosecutors with specialized training in the dynamics of intimate partner violence (IPV). At the time of our site visit, the unit was not active due to staff attrition.

Assessment

Lucas County has adopted the Public Safety Assessment (PSA) as a general risk need assessment tool. The pretrial services department is aware of the limitations of a general risk assessment tool for predicting IPV; accordingly, the risk level assigned by the PSA is always bumped up when a case involves IPV.

Given the limitations of the PSA, local law enforcement adopted the Danger Assessment for Law Enforcement (DALE), which they administer on-scene. Results inform arrest and release decisions. Results may also help service providers to triage immediate survivor needs.

Release Decisions

Diversion is not allowed for cases involving IPV.

The domestic violence high risk team (DVHRT) was on hold due to COVID-19 during our site visit, but is intended to utilize DALE assessment results to inform pretrial release, including release conditions, and sentencing. The team brings together stakeholders from across agencies with the aim of implementing practices specifically thought to prevent homicide.

Release conditions are informed by PSA risk level, with a noted bump up for cases involving IPV. Conditions in IPV cases are further informed by the DALE and by survivor input. Interviewees noted that judicial discretion also plays a role in determining release conditions.

Pretrial Supervision

Supervision levels are determined based on risk level. For example, high-risk individuals require weekly contact, while low-risk individuals require monthly checks.

Electronic monitoring (EM) is regularly used as a tool for pretrial release in Lucas County. Stakeholders reported that EM is a common condition for IPV cases. In such cases, law enforcement immediately notifies survivors if there is a violation of established exclusion zones. One interviewee emphasized that EM is one tool, but is not seen as a guarantee of safety.

Collaborative Approach

The Lucas County Domestic Violence Task Force is the site's coordinated community response (CCR). In addition to the CCR, there is a collaborative of local victim advocacy groups that are funded under the Violence Against Women Act.

Toward promoting transparency and information-sharing across agencies, the office of the Clerk of Courts created a cross-agency app that allows users to view release status and bond decisions. This resource is used by survivors, advocates, shelters, and attorneys.

Focus on Survivors

Interviewees noted a local culture shift over time, particularly in the prosecutor's office. The office has designated DV prosecutors and noted a movement toward trying to understand survivors' perspectives better.

The municipal court has a separate waiting room for survivors of IPV.

The Domestic Violence Resource Center brings together resources for survivors, including assistance with filing civil protective orders and linkages to advocates and shelter.

1. Read more about the Safety and Justice challenge at safetyandjusticechallenge.org.

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