

# **El Paso County, Colorado Institutional Safety & Accountability Audit Report**

**A Project of the El Paso County  
Greenbook Project**



**August 2007**



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- Judge Barney Iuppa, Presiding County Court Judge, and Chair of the Judicial Integration Committee
- Judge David Gilbert, District Court Judge
- Cari Davis, TESSA Executive Director (June 2002 – December 2006)
- Doug Miles, Office of the District Attorney, Chief Deputy District Attorney
- Bridget Collins, Fourth Judicial District Probation Officer, DV Unit
- Misty Young, Fourth Judicial District Court, Greenbook Domestic Violence Case Monitor
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- Terry Schwartz, Greenbook Local Research Partner
- Lisa Tessarowicz, Safety and Accountability Audit Coordinator
- Amber Ptak, Greenbook Project Manager

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- El Paso County Sheriff’s Office: Patrol, Criminal Justice Center (CJC), DVERT, and Court and Transport
- El Paso County Department of Justice Services
- Fourth Judicial District Courts
- Fourth Judicial Office of the District Attorney

- Fourth Judicial District Probation
- TESSA (the community-based non-profit organization providing domestic violence and sexual assault victims services)

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- Misty Young, Greenbook Domestic Violence Case Monitor, Fourth Judicial District Courts
- Lisa Tessarowicz, Greenbook Safety and Accountability Audit Coordinator
- Amber Ptak, Greenbook Project Director

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- Sgt. Howard Black, Colorado Springs Police Department
- Judge Barney Iuppa, Chief County Court Judge, Fourth Judicial District
- Doug Miles, County Court Chief Deputy District Attorney, Office of the District Attorney
- Ellen Walker, Probation Supervisor, Fourth Judicial District
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- Focus Group Participants: Women from TESSA's DoVE and PEACE Groups, El Paso County Court Deputy District Attorneys, and TESSA Advocates.

**A note about the use of gender specific language:** Because the vast majority of victims of adult domestic violence are women who are abused by their male partners (Bureau of Justice Statistics, 2000), the content of this report often refers to victims as female and abusers as male. However, the majority of the content in this document will apply to all victims regardless of their gender or the gender of their partner.

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## EXECUTIVE SUMMARY

In November 2004, the El Paso County Greenbook Project, a federally-funded initiative addressing the co-occurrence of domestic violence and child maltreatment, embarked on a journey to implement a local Institutional Safety and Accountability Audit (“Audit”). The goal of the Audit was to strategize ways to improve the safety and well-being of adult/child victims, enhance offender accountability, and create a system of accountability for the agencies that respond to domestic violence. After a series of trainings with Ellen Pence from Praxis International, technical assistance from the Battered Women’s Justice Project, interviews with local professionals in the field, and focus groups with adult victims of domestic violence, the Greenbook Judicial Integration Committee began to investigate the following Audit Question:

*What information/factors influence prosecutorial decision-making and case disposition in misdemeanor domestic violence cases, as they relate to adult/child victim safety and offender accountability?*

An Audit Coordinator was hired in July 2005 to provide guidance to the multidisciplinary Audit Team. The Audit Team was responsible for investigating the Audit Question; analyzing the results from the mapping, interviews, observations, focus groups and text analysis; and developing recommendations for the community. This report is the product of twenty-four months of investigation, analysis, dialogue and action.

The Audit Report is structured into three major sections:

- **Section I:** Defining the Issue, An Overview of the Greenbook Project, A Description of Institutional Safety and Accountability Audits, and the El Paso County Institutional Safety and Accountability Process
- **Section II:** El Paso County Institutional Safety and Accountability Audit Report’s Gaps, Findings and Recommendations
- **Section III:** Appendix of Local and National Resources

Section II is the critical section of the report and it includes the Audit Flowchart, which was developed by the Audit Team soon after data collection was complete. The Flowchart provides a visual of what information/factors could in fact improve prosecutorial decision-making and case disposition. It was used as a tool to help narrow and conceptualize the findings, categorize the work by “issue” and by “system,” and it led to many spirited dialogues that resulted in the identification of the four gaps (See Page 27 for a copy of the Audit Flowchart).

The Audit Team and the Audit Advisory Committee outlined each of the four gaps present in the investigation and developed specific recommendations for leaders in the criminal justice system and the broader community that will ultimately result in a more effective, coordinated response to domestic violence.

The four gaps that were identified include:

1. Prosecutors must make near-instantaneous decisions on charges, bail recommendations, disposition and sentence recommendations, often with sparse information on the facts of a particular incident and on the prior history between the parties involved, as well as with limited access to the full prior record of the defendant.
2. Risk assessment and safety planning are not institutionalized consistently among and between the District Attorney's office and professionals in the field whose work prosecutors rely upon (911 staff, law enforcement officers, advocates, court staff, defense attorneys, probation officers).
3. Prosecutors are working in a system which, as a whole, has difficulty holding repeat offenders, stalkers and manipulators of the system accountable.
4. Prosecutors deal with battered women who, in addition to the criminal justice system, are also involved with other legal or administrative systems intervening in the violence (i.e., divorce court, child custody and visitation proceedings, protection order hearings, child protective services, the military).

Professionals in these other legal or administrative systems do not necessarily have the same training, philosophy or policy on battering that prosecutors have; there is not an institutionalized information exchange or coordination between them and prosecutors. As a result, there is sometimes a "working at cross purposes" effect on battered women, who can then be prone to lump all system players in one basket and feel mistrustful of all, be disempowered and become discouraged from communicating safety concerns to authorities in the future.

Recommendations are separated into distinct categories that are related to the Audit Trails. Categories that are used in each of the recommendations sections include: Policies and Procedures; Administrative Practices; Resources; Linkages; and Training/Education. Definitions of each Audit Trail are provided prior to the list of recommendations.

Finally, the Audit Team and the Audit Advisory Committee hope that community leaders, agency directors and supervisors, and frontline workers are inspired to:

- Create a consortium, whether it is a coalition, coordinating council, or task force, whose goal it is to increase the communication and coordination among the different agencies, systems, and institutions that respond to victims and offenders of domestic violence.
- Institutionalize cross system dialogue and information sharing among systems so that agencies are coordinated, regardless of who is in charge.
- Hire one (or more) coordinator(s) to oversee the implementation of the recommendations brought forth in this report.
- View the Audit Report as a living document; institutionalize the evaluation of our community's response to domestic violence in order to update and revise the Audit Report every few years.
- Use the Audit Report as a training tool and a catalyst for dialogue and examination within communities.

**SECTION I:  
Overview of the Process**

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**DESCRIPTION OF THE COMMUNITY** (Wikipedia, 2007)

El Paso County is located on Colorado's Front Range, approximately 65 miles south of Denver, and is located in Colorado's 5th congressional district. In 2006, it became the most populous county in the state of Colorado, with an estimated population of 584,200 people, an increase of 67,271 since the 2000 census. Since its inception, El Paso County has voted for a Republican in every presidential election. At an elevation of 6,035 feet, Colorado Springs is over a mile above sea level, though some areas of the city are significantly higher. The city itself is situated near the base of one of the most famous American peaks, Pikes Peak, on the east side of the Rocky Mountains.

**Race/Ethnicity:** As of the 2000 census, there were 516,929 people, 192,409 households, and 133,916 families residing in the county. The racial makeup of the county was:

- 80% White
- 11% Hispanic or Latino of any race
- 6% Black or African American
- 2% Asian/Pacific Islander
- 1% Native American

**Growth:** El Paso County has experienced significant growth (30+ %) over the last fifteen years, much of it in the suburban and rural portions of the county. Colorado gained more than a million new residents during the 1990s, and El Paso County grabbed one out of every 10 of them, a rate of 33 new people a day. This growth has put increasing pressure on city and county infrastructure, as well as changed the population locus of the county towards outlying areas. Additionally, Colorado Springs experiences overcrowded roads and highways, crime, sprawl, and government budget issues.

**Industry:** The main industry is the military. With the Air Force Academy, Fort Carson, Peterson Air Force Base, Schriever Air Force Base, and NORAD all within county limits, the community is particularly transient. Many high-tech businesses reside in the city, including a large number of computer chip manufacturers (e.g., Intel, and the legendary chip foundry INMOS). A large number of religious organizations and churches make their headquarters here, particularly Evangelical Christians. The Mountain West Conference has its administrative headquarters in Colorado Springs.

**Household Information:** There were 192,409 households in 2000, out of which 36% had children under the age of 18 living with them, 55% were married couples living together, 10% had a female householder with no spouse present, and 30% were non-families. 24% of all households were made up of individuals and 6% had someone living alone who was 65 years of age or older. The average household size was 2.61 and the average family size was 3.11.

**Age and Gender:** In the county, the population was spread out with 28% under the age of 18, 11% from 18 to 24, 32% from 25 to 44, 21% from 45 to 64, and 8% who were 65 years of age or older. The median age

was 33 years. For every 100 females, there were 100.90 males. For every 100 females age 18 and over, there were 98.80 males.

**Income:** The median income for a household in the county was \$46,844 in 2000, and the median income for a family was \$53,995. Males had a median income of \$35,940 versus \$26,252 for females. The per capita income for the county was \$22,005. About 5% of families and 8% of the population were below the poverty line, including 10% of those under age 18 and 7% of those age 65 or over.

### **DESCRIPTION OF THE PROBLEM:**

Like most communities, El Paso County has not yet instituted an effective system to assess the presence, impact, and damaging effects associated with domestic violence (DV) and child maltreatment (CM). We can begin to estimate the size of the problem based on national, state and local statistics.

**National:** According to the National Crime Victimization Survey, 85% of intimate partner violence victims were women (Rennison, 2001). Nearly 5.3 million intimate partner victimizations occur each year among U.S. women ages 18 and older. This violence results in nearly 2 million injuries and nearly 1,300 deaths (CDC, 2003). Estimates indicate more than one million women and 371,000 men are stalked by an intimate or former partner each year (Tjaden & Thoennes, 2000). Intimate partner violence occurs across all populations, irrespective of social, economic, religious, or cultural group. Young women and those below the poverty line are disproportionately affected (Heise & Garcia-Moreno, 2002). As many as 324,000 women each year experience intimate partner violence during their pregnancy. Homicide committed by an intimate partner or former intimate partner is the leading cause of death of pregnant women in the United States (Chang, Berg, Saltzman, & Herndon, 2005). A majority of studies reveal there are adult and child victims in 30 to 60 percent of families experiencing domestic violence (Edleson, 1999).

**Colorado:** Almost one-half of all murders in Colorado are committed by an intimate or former partner and the victims are disproportionately female. From 2000 to 2005, 17 children were killed during a domestic violence related incident. A firearm, specifically a handgun, is the most used weapon during a domestic violence homicide. Knives were the second most used weapon. Since 2002, there have been 45 incidents of murder-suicide resulting in 97 deaths. Men were the perpetrators in over 90% of the murder-suicide cases (Project Safeguard, 2005). In 2005, domestic violence victim assistance agencies provided 111,791 nights of shelter to 4,955 women and their children, but had turned away 5,537 requests due to lack of space (CDHS, 2005). In 2005, there were 72,608 criminal cases filed in Colorado County Courts. Of those, 14,726 (20%) were classified as domestic violence (SCAO, 2005).

**Local:** The Colorado Springs Police Department receives more domestic violence related calls-for-service than any other person-related crime (K. Lincoln, personal communication, April 2006). TESSA received over 42,000 domestic violence and sexual assault client service calls, served over 2,800 domestic violence and/or sexual assault advocacy clients, provided over 5,700 nights of shelter to 378 women and children, and counseled over 600 residential (Safehouse) and non-residential clients in 2004. TESSA continues to turn away requests for safe housing due to insufficient capacity. The Colorado Springs Police Department and El

Paso County Sheriff's Office responded to approximately 20,000 domestic calls for service and made approximately 3,000 misdemeanor domestic violence arrests in 2004. According to Sgt. Cari Graves from the Domestic Violence Enhanced Response Team, El Paso County experienced more domestic violence related homicides in 2002 than Denver, Douglas, Boulder, and Adams Counties combined. The Office of the District Attorney's Office estimates that of the total number of misdemeanor domestic violence arrests, over 50% of the cases report children being home at the time of the incident. According to the El Paso County Department of Human Services, a 1997 survey of Temporary Aid to Needy Families (TANF) recipients showed that one third of respondents were victims of domestic violence. In 1999, the same survey indicated that 52% of the respondents had been or were currently being abused by an intimate partner. From the child welfare perspective, DHS received over 9,000 reports of child abuse in 2004, of which approximately 4,000 were investigated and 600 were confirmed. This represents a 20% increase in the number of child abuse cases reported to DHS over the last fifteen years (not adjusted for population growth).

**Consequences:**

- On average, more than three women are murdered by their husbands or boyfriends in this country every day. In 2000, 1,247 women were killed by an intimate partner. The same year, 440 men were killed by an intimate partner (Bureau of Justice Statistics, 2003). Women with a history of intimate partner violence report 60% higher rates of health problems than do women with no history of abuse (Campbell, Jones, Dienemann, Kub, Schollenberger, and O'Campo, 2002).
- Women in violent relationships have been found to be restricted in the way they gain access to services, take part in public life, and receive emotional support from friends and relatives (Heise & Garcia-Moreno, 2002).
- Victims of intimate partner violence lose a total of nearly 8 million days of paid work, the equivalent of more than 32,000 full-time jobs, and nearly 5.6 million days of household productivity each year as a result of the abuse (CDC, 2003).
- Women with a history of intimate partner violence are more likely to display behaviors that present further health risks, such as substance abuse, alcoholism and increased risk of suicide attempts (Coker, Davis, Arias, Desai, Sanderson, and Brandt, 2002).
- Abusers often use their partners' immigration status as a tool of control. In such situations, it is common for a batterer to exert control over his partner's immigration in order to force her to remain in the relationship (Orloff, Leslye and Kaguyutan, 2002).
- Battered women often lose custody of their children as a result of "failing to protect" their children from the abuse perpetrated on them by their intimate partners (Schechter & Edleson, 1998).
- Additionally, women have found themselves arrested, prosecuted, and sentenced along with the batterers for whom the policies were intended (Asmus, 2005).

### **OVERVIEW OF THE FEDERAL GREENBOOK PROJECT** (Schechter & Edleson, 1998)

In about half of all child maltreatment cases, a mother is also being battered. The intersection of domestic violence and child maltreatment is generally overlooked. Too often, non-offending battered mothers are blamed for the abuse of their children perpetrated by the mother's intimate partner. Too rarely, perpetrators are held accountable. Children suffer because they may be injured in the course of violence against their mother, or they suffer harmful effects simply by being in a violent home. Most communities treated the abuse of an adult and the maltreatment of a child in the same family as separate, unrelated phenomena. Today, communities and service providers have begun to examine and address the profound impacts of multiple forms of violence within individual families.

In most communities, the primary systems helping mothers and children become safe – law enforcement, the courts, the district attorney's office, domestic violence service providers, and child protective services – need to strengthen their understanding, capacity, and tools to address the co-occurrence of domestic violence and child maltreatment. Several years ago, the Family Violence Department of the National Council of Juvenile and Family Court Judges convened leading family court judges and experts on child maltreatment and domestic violence to address this issue. Together, they developed and published "Effective Interventions in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice." Known as the "Greenbook," these guidelines offer a comprehensive set of responses designed to reduce, or altogether eliminate, the enormous risks that battered mothers, caseworkers, and judges must take on behalf of children.

The U.S. Departments of Justice and Health & Human Services selected six communities from over 100 applications to participate in a federally funded demonstration initiative to implement the Greenbook's principles and recommendations. Each site received \$350,000 per year to implement their plans. Funding began in December 2000 for the sites and continued over five years. The six sites are: El Paso County, Colorado; Grafton County, New Hampshire; Lane County, Oregon; San Francisco, California; Santa Clara County, California; and St. Louis County, Missouri. The sites are receiving technical assistance from experts coordinated by the National Council of Juvenile and Family Court Judges, including the Family Violence Prevention Fund and American Public Human Services Association. The federal agencies have convened a national evaluation team that is exploring how effectively the sites are at implementing the Greenbook's recommendations. Additionally, each site is required to have a local research partner to work with the national evaluation team and to lead local evaluation and data collection activities.

Several offices of the U.S. Departments of Justice and Health & Human Services provided funding to the federal Greenbook Project. The offices in the Department of Justice include: The National Institute of Justice; the Office on Violence Against Women; the Office for Victims of Crime; and the Office of Juvenile Justice

and Delinquency Prevention. In the Department of Health and Human Services, the agencies include: the Children's Bureau, Administration for Children, Youth and Families; the Office of Community Services, Administration for Children and Families; the Division of Violence Prevention at the National Center for Injury Prevention and Control, Centers for Disease Control and Prevention; and the Office of the Assistant Secretary for Planning and Evaluation. Private funding partners include the David and Lucile Packard Foundation, the Edna McConnell Clark Foundation, the Annie E. Casey Foundation, and the National Council of Juvenile and Family Court Judges.

### **Federal Project Goals**

Although the six funded demonstration sites are diverse in their demographic makeup, geography, and experience in dealing with the co-occurrence of domestic violence and child maltreatment, each site is expected to achieve the following goals:

1. Develop a community collaboration to plan and implement Greenbook recommendations.
2. Each of the primary systems, at least, will make changes to policies and procedures to improve the safety and well being of battered women and their children.
3. The members of the collaboration will take actions to improve the ways their organizations work together to address particular cases involving battered women and their maltreated children to improve their safety and well being.
4. Institute policies and procedures that minimize blaming the non-offending parent by not using designations that inappropriately imply the mother's failure to protect her children, by maintaining children with their non-offending parent, and by creating plans for the perpetrator designed to curtail further abuse if s/he chooses to remain involved with the children.
5. The partnership will improve ways of holding offenders accountable.
6. Policy and practice reform should be informed by community service providers, community members, and former clients of child welfare and domestic violence programs.
7. The federal initiative will create a sustainable set of cooperative relationships among the participants to continue working on Greenbook issues when Federal funds cease.

### **Overview of the El Paso County Greenbook Project**

Prior to being awarded the Federal Greenbook Grant, fourteen organizations in El Paso County collaborated on conceptualizing and writing the grant. The award is linked to the nationally-recognized work done to date and the strong foundation of collaboration in this community. In writing the application, the collaborative tried to build on past successes, existing relationships, and current structures, while integrating as many of the Greenbook principles and recommendations as possible. The consortium aims to provide proactive services and support to families dealing with the co-occurrence of domestic violence and child maltreatment so as to minimize their system involvement, and possible re-victimization, and to enhance offender accountability.

The consortium convened in March 2001 to develop a logic model outlining goals and objectives the community hoped to achieve as a result of the following five years. Facilitated by the Greenbook Local Research Partner, the Greenbook Oversight Committee designed strategies that would, at a minimum:

1. Improve screening, assessment, and referral procedures within and among Greenbook agencies.
2. Provide frontline workers and managers with ongoing opportunities for system cross-training and shadowing.
3. Involve family representatives (survivors and “former offenders”) in the grant decision-making process.
4. Institute policies and procedures to insure appropriate confidentiality and reporting to enhance the safety of family members.
5. Monitor compliance with offender treatment enrollment to support offender accountability.
6. Understand criminal justice system responses to families and recommend improvements.
7. Provide ongoing education to the judicial system (Bench, Bar, Staff) regarding the co-occurrence of domestic violence and child maltreatment (DV/CM) and develop protocols for enhancing safety and offender accountability.
8. Increase knowledge, skills, and abilities of staff in the area of cultural competence and inclusivity, particularly the intersections of sexism, racism, classism, heterosexism, etc.
9. Provide access to civil legal counsel and/or resources for adult victims of domestic violence.
10. Improve Child Protective Services’ practice with respect to co-occurrence.
11. Develop a protocol for responding to child witnesses of domestic violence.
12. Raise community awareness of the intersection of domestic violence and child maltreatment via a mass public education campaign.
13. Create a community model to engage men to prevent violence against women and children.

### **El Paso County Greenbook Partners**

The El Paso County Greenbook Project is governed by an Executive Committee that includes: TESSA, Fourth Judicial District Courts, El Paso County Department of Human Services, Colorado Springs Police Department (Domestic Violence Enhanced Response Team – DVERT), Court Appointed Special Advocates (CASA) of the Pikes Peak Region, and Family Representatives. Additionally, an Oversight Committee representative of various agencies in El Paso County provides guidance and recommendations to the Executive Committee. In addition to representation from Family Representatives, the agencies that signed an active Greenbook Memorandum of Understanding in 2005 included Colorado Legal Services; Colorado Springs Police Department, Domestic Violence Enhanced Response Team (DVERT); Court Appointed Special Advocates (CASA) of the Pikes Peak Region; El Paso County Combined Courts, Fourth Judicial District; El Paso County Department of Health & Environment; El Paso County Department of Human Services; The Family Center; Fort Carson Army Community Service /Family Advocacy Program; Office of the District Attorney, Fourth Judicial District; Pikes Peak Mental Health Center; Probation, Fourth Judicial District; Safe Passage (formerly known as the Children’s Advocacy Center); TESSA; and Urban League of the Pikes Peak Region.

### **What is an Institutional Safety and Accountability Audit?**

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, skills, or philosophical orientations to a problem. In an ethnographic study, we can find the organizational processes that shape activities across a range of local settings. Since events in small communities are linked to larger systems of governing, the 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 standpoint 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 (GAO, 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 institutional processes and positively impact victim safety. Also called "*Institutional Safety and Accountability Audits*," these ethnographic processes can be found in the literature applied to violence against women in a variety of settings apart from the violence that occurs among intimate partners including campuses, apartment buildings, and neighborhoods (Pence & Lizdas, 1998).

### **Overview of the Need to Conduct a 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 twenty-four hours, up to a dozen individuals will act on her case. They hail from as many as five agencies and represent four 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 services workers, civil court judges, criminal court judges, family court judges, guardians ad litem, CASA, family court counselors, child and family investigators, therapists, social workers, probation officers, TESSA (Safehouse, Main Office, DVERT, DHS) advocates, children's advocates, offender treatment provider advocates, and support group facilitators at TESSA may all become involved in a chain of events activated by her original call for help.

In the past twenty 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 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. It 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 it is structured to reflect the actual experiences and job functions of those who intervene in domestic violence cases, it engages workers in the system 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.

## THE EL PASO COUNTY INSTITUTIONAL SAFETY AND ACCOUNTABILITY AUDIT PROCESS

In February 2002, Ellen Pence provided Institutional Safety and Accountability Audit (“Audit”) training to all six Greenbook sites. Soon after the training, the El Paso County Greenbook Project invited Ms. Pence to Colorado Springs to provide additional training and ongoing technical assistance to this site in order to implement an Audit in the El Paso County Department of Human Services (DHS)/Child Protection Intake Unit. The Greenbook Project hired an Audit Coordinator in October 2002 to coordinate these efforts and the project led to the identification of numerous strengths, gaps, and next steps to preserve the safety and security for battered women and their children involved in Child Protective Services.

Seeing the DHS Audit process as a success, the Greenbook Judicial Integration Committee agreed in August 2004 to conduct another local Audit that would focus on a cross-section of the criminal justice system’s response to domestic violence. A researcher was hired in November 2004 to survey and interview local practitioners and to identify potential themes to explore in the Audit. After months of discussion and help from the Battered Women’s Justice Project and Praxis International, the Judicial Integration Committee agreed on an Audit Question:

### **AUDIT QUESTION:**

*What information/factors influence prosecutorial decision-making and case disposition in misdemeanor domestic violence cases, as they relate to adult/child victim safety and offender accountability?*

The Judicial Integration Committee members met with local directors of agencies, including the Chief of Police, an El Paso County Bureau Chief, the Fourth Judicial District Chief Probation Officer, the Fourth Judicial District Attorney, the TESSA Executive Director, and the Chief County Court Judge to discuss the strengths, consequences, opportunities, and risks associated with conducting an Audit. After months of consideration and discussion, these individuals agreed that the benefits of implementing an Audit, including enhancing safety for adult/child victims, were well worth the risks involved in opening their agencies up for potential criticism. In order for the Audit process to be successful, the Audit Team had to learn how to be critical of an agency’s response without sounding as though they were “bashing” or “blaming” another system. The community is proud of its history of collaboration and believes strongly that successful projects depend on relationships, institutional empathy and respect, and a commitment to evaluate practices openly and honestly in order to improve the safety and well-being of El Paso County citizens. Past and current collaborative partnerships that provided the opportunity for the community to conduct the Institutional Safety and Accountability Audit include: Pikes Peak Domestic Violence Coalition; Joint Initiatives for Youth & Families; High Risk Child Abuse and Neglect Committee; Domestic Violence Enhanced Response Team (DVERT); and the creative use of TANF funds to co-locate two domestic violence advocates from TESSA in the Department of Human Services’ Family Independence Program.

Each participating agency agreed to sign a Memorandum of Understanding (MOU) (See Appendix B) detailing the long standing commitment and expectations of the agency and their representatives. Once the MOU was signed by all parties, the Judicial Integration Committee selected eleven practitioners, mostly frontline workers, to participate on the Audit Team: Emily Bowker from TESSA; Bridget Collins from Probation; Nancy Duke from TESSA; Cheryl Howe from the Courts; Shannon Gerhart from the District Attorney's Office; Sgt. Mark Getskow from the El Paso County Sheriff's Office; Officer Jennifer Lewis from the Colorado Springs Police Department (CSPD); Karen Lincoln from the CSPD Communications Center; Evamarie Wilkinson from Greenbook/TESSA; Misty Young from the Courts; and Amber Ptak from the Greenbook Project. The Audit Team members participated in mapping, observing, interviewing, and text analysis as determined by the scope of the Audit Question. They also met as a group to discuss the Audit findings, recommend changes in policy, procedure and training, and strategize on how best to implement the recommended changes. Team members are expected to help implement, monitor, and evaluate changes over time. In addition to the Audit Team, a group of administrators from each participating agency was selected to be advised of the Audit process on an ongoing basis to provide overall support of the Audit Team and the pending recommendations. The Safety Audit Advisory Committee includes: Sgt. Howard Black from CSPD; Judge Barney Iuppa from County Court; Doug Miles from the DA's Office; Ellen Walker from Probation; and Michelle Valdez from TESSA. Finally, in October 2005, the Judicial Integration Committee hired the Audit Coordinator, Ms. Lisa Tessarowicz, to provide guidance, direction and overall supervision to the entire process.

The Audit Team held its first meeting in November 2005 and continued to meet twice monthly for a minimum of two hours per meeting. The focus of the first few Audit meetings was to familiarize the Team with the Audit process, get to know fellow Audit Team members, discuss the Audit Question (which had already been drafted by the Greenbook Judicial Integration Committee), and assist the Audit Coordinator in creating a Site Resource Book, which included: the Colorado Domestic Violence Statutes; CSPD Communications Center policies and procedures; Law Enforcement policies, procedures, and forms; the District Attorney's Office policies, procedures, and brochures; existing systems maps; and El Paso County demographic information and local domestic violence statistics. Audit Team members also signed Confidentiality Agreements (See Appendix C) ensuring that all Audit materials and issues raised during interviews, observations, meetings, trainings, focus groups, and text analysis would remain confidential between Audit Team Members. In November 2005, the Audit Team participated in a two-day Audit Training led by Rhonda Martinson and Michael Paymar, the Audit Team's Technical Assistants from the Battered Women's Justice Project in Minneapolis, Minnesota. Topics covered during this Audit Training included: Definitions of a Battered Woman, Domestic Violence, Safety, and Risk; Problematic Features in Institutions of Social Management; Audit Trails; Case Processing; Audit Question and Scope; Focus Groups; Interviewing; Observations; and Text Analysis. During the course of the Audit, Audit Team members were

encouraged to participate in a variety of additional trainings and Praxis International Audio Conferences which included discussions relating to the following: “Thinking and Acting like and Auditor,” “What to do When Victims of Battering Use Violence Against their Abusers,” “The Impact of Crawford on Prosecution,” and the “Law Enforcement Response to Battered Women’s Use of Force.”

By the beginning of 2006, the Audit Team entered the data collection phase of the Audit process, which included interviews, observations, focus groups, and text analysis. During January and February 2006, each Audit Team member volunteered to complete at least two interviews and two observations by the end of April 2006. Team members were encouraged to interview and observe practitioners who worked outside of their own system; for example, a Probation Officer interviewed a confidential Victim Advocate, a Communications Center Senior Analyst interviewed a County Court Judge, a Children’s Program Manager interviewed a Major Crimes Detective, and a Patrol Officer interviewed the Army Community Service Family Advocacy Program Manager. By the end of April, the Audit Team completed over 45 interviews and observations of individuals who work with domestic violence victims and/or offenders (See Appendix D) for complete list of interviews and observations). Audit Team members were provided the opportunity to debrief all of their interviews and observations with the Audit Coordinator, as a small group, or with the entire Audit Team during Audit Team meetings.

In April 2006, the Audit Team participated in a Call-for-Service Training during which Audit Team members were able to observe and participate in a series of practical scenarios depicting Law Enforcement Officers’ response to a domestic violence incident. Domestic violence experts acted out a variety of real-life scenarios to which 911 Operators, 911 Dispatchers, and Law Enforcement Officers had to respond. Audit Team members were provided an opportunity to talk through the process, discuss next steps, and ask any questions relating to case processing.

The BWJP Technical Assistant and the Audit Coordinator facilitated a series of focus groups in April 2006 with County Court Deputy District Attorneys, Domestic Violence Advocates, and victims of domestic violence, to gain additional information to answer the Audit Question. The victim’s focus group participants discussed their experiences with 911 Operators, Law Enforcement Officers, Prosecutors, Court Personnel, and Victim Services Providers. They also explained how these systems met their needs and ways in which the systems could be improved to better protect victims and their children. The Advocacy and Prosecution focus group participants discussed the biggest challenges they face in their work and the gaps that exist between their organizations and other organizations/systems that serve victims and offenders of domestic violence.

April 2006 was also the month during which the Audit Team performed its text analysis. With the help of the Technical Assistant, the Audit Team reviewed 30 domestic violence case files from the District Attorney’s Office. Of the 30 files, 50% of the defendants chose to take a plea and 50% chose to take their case to trial.

The files were representative of the many different types of case dispositions, including dual arrests, female arrests, same-sex couples, defendants who were offered and accepted a deferred sentence, defendants who were offered and accepted probation, and dismissed cases. Prior to the half-day text analysis work session, each Audit Team member was instructed to read their assigned case files three separate times, each time with a different focus: once to determine chronology, another time to identify Problematic Features, and a final time to point out Audit Trails (See Appendices E and F for Problematic Features and Audit Trails). The goal of the text analysis work session was to identify institutional and chronological gaps in case processing; discuss what, how, and why decisions were made in each case, and determine at what points there was victim input and/or completed risk assessments.

Mapping the systems, including how people and cases are processed in each system, is another key phase of the Audit process. Flowcharts help us better understand how cases are managed within systems and how cases are transferred from one system to another. Using their own experiences, the expertise of the people they interviewed and observed, and information available from the case files, the Audit Team created case processing flowcharts on the decision-making processes and factors/information that influence these processes for Law Enforcement, the Office of the District Attorney, and Fast Track (See Appendix G for a narrative case flow of each of the participating Audit Agencies).

During the entire data collection phase of the Audit, Team members were encouraged to take note of each institution's strengths and problem areas. The Audit Coordinator kept a list of those that were identified during Audit Team meetings, interview and observation debriefings, the Call-for-Service training, focus groups, and the text analysis work session. During this phase of the Audit, it became clear that many practitioners lacked an understanding of, or used varying definitions of, domestic violence terms. Additionally, many practitioners had little knowledge of the most common misdemeanor charges for domestic violence (See Appendix H for domestic violence terms and definitions and Appendix I for common misdemeanor domestic violence charges in El Paso County).

In January 2007, the Audit Team handed all of its data, findings, and recommendations over to Rhonda Martinson, the Technical Assistant, in order for her to draft the *El Paso County Institutional Safety & Accountability Audit Report's Gaps, Findings and Recommendations*.

**SECTION II:  
El Paso County Institutional Safety & Accountability Audit Report's  
Gaps, Findings and Recommendations**

**Description of Section II:**

Section II: “Gaps, Findings and Recommendations,” is the critical section of the Audit Report. After eighteen months of data collection, the Audit Team created an Audit Flowchart that outlined the information/factors that could in fact improve prosecutorial decision-making and case disposition and categorized them by system. The Flowchart prepared the Audit Team to write the results of the analysis and develop recommendations for the community. The Audit Team worked closely with Rhonda Martinson from the Battered Women’s Justice Project to write the content of this section of the report. The Audit Team and Audit Advisory Committee collaboratively developed community recommendations, some of which are repeated, that address each gap. Section II is structured in the following way:

**Audit Flowchart:..... Page 27**

**Gap 1:..... Page 28**

Prosecutors must make near-instantaneous decisions on charges, bail recommendations, disposition and sentence recommendations, often with sparse information on the facts of a particular incident and on the prior history between the parties involved, as well as with limited access to the full prior record of the defendant.

- Why/How is this Gap a Concern for Victims of Domestic Violence?
- What Contributes to this Gap?
- What Would Address this Gap?

**Gap 2:..... Page 43**

Risk assessment and safety planning are not institutionalized consistently among and between the District Attorney’s office and professionals in the field whose work prosecutors rely upon (911 staff, law enforcement officers, advocates, court staff, defense attorneys, probation officers).

- Why/How is this Gap a Concern for Victims of Domestic Violence?
- What Contributes to this Gap?
- What Would Address this Gap?

**Gap 3:..... Page 54**

Prosecutors are working in a system which, as a whole, has difficulty holding repeat offenders, stalkers and manipulators of the system accountable.

- Why/How is this Gap a Concern for Victims of Domestic Violence?
- What Contributes to this Gap?
- What Would Address this Gap?

**Gap 4:..... Page 61**

Prosecutors deal with battered women who, in addition to the criminal justice system, are also involved with other legal or administrative systems intervening in the violence (i.e., divorce court, child custody and visitation proceedings, protection order hearings, child protective services, the military). Professionals in these other legal or administrative systems do not necessarily have the same training, philosophy or policy on battering that prosecutors have; there is not an institutionalized information exchange or coordination between them and prosecutors. As a result, there is sometimes a “working at cross purposes” effect on battered women, who can then be prone to lump all system players in one basket and feel mistrustful of all, be disempowered and become discouraged from communicating safety concerns to authorities in the future.

- Why/How is this Gap a Concern for Victims of Domestic Violence?
- What Contributes to this Gap?
- What Would Address this Gap?

## Helpful Things to Know about Colorado Statutes as You Read this Report:

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### *Community-Based and Systems-Based Victim Advocates:*

One of the unique benefits that Colorado community-based domestic violence agencies and rape crisis centers (i.e., TESSA) offer to its clients is **confidential privilege**. According to CRS 13-90-107 (1) (k), all client information provided to community-based victim advocates (“a person at a battered women’s shelter or rape crisis center”) is confidential unless there is a specific written release from the client. This means that community-based victim advocates can neither confirm nor deny that a person is a client. Although the statute is written around who may testify in court, it has been interpreted as such that any client information, written and oral, must be held confidential. This victim-advocate privilege is similar to that of attorney-client, physician-patient, priest-penitent, and therapist-client privilege.

This statute applies only to victim advocates working in domestic violence agencies or rape crisis centers. It **does not apply** to victim advocates who work for a law enforcement agency (i.e., police, sheriff, and probation), the military and the District Attorney’s Office. These “system-based victim advocates” have their own unique role, which is primarily focused on helping victims navigate the criminal justice process. They are experts within the system, but they do not offer confidential privilege to victims of domestic violence and sexual assault.

Both types of advocates play important roles in the response to domestic violence on behalf of the victim’s interests and needs.

### *Domestic Violence Offender:*

Colorado statutes define “domestic violence offender” in very broad terms: any person involved in an incident between intimate partners may be subject to mandatory arrest upon a determination of probable cause. A victim of historical abuse who strikes out in frustration against her offender would, under the application of Colorado statutes, be subject to arrest, prosecution and conviction as a “domestic violence offender”(See Appendix H).

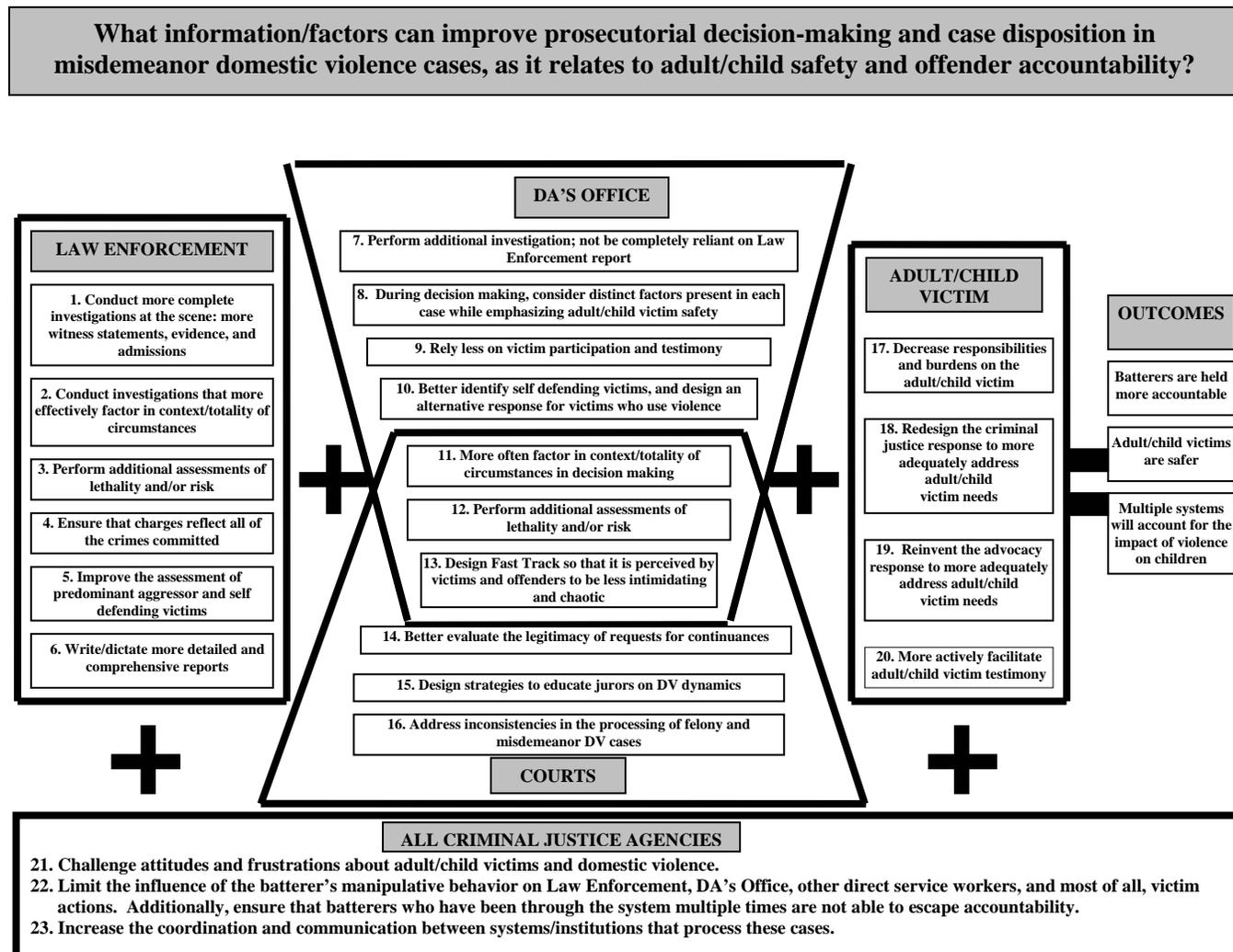
### **El Paso County Safety Audit Report Data Charts:**

Rhonda Martinson, Battered Women’s Justice Project, assisted in the data collection and compiled data charts for every case used in the text analysis. The data charts provide detailed information about each case and include information on the following: arrestee gender; relationship; charge(s); victim statement; victim injuries; victim demeanor; offender statement; offender injuries; offender demeanor; children; witness(es); witness statement; and the scene.

Throughout Section II, these data charts are referred to in the text as, “See Cases 1, 2, 3...” They are provided as “evidence” for a particular finding during the text analysis. Due to the file’s size, the Audit Team decided against attaching the comprehensive charts to this Audit Report; however, these data charts and a full copy of this Audit Report are available on the Office of the District Attorney’s website:

<http://dao.elpasoco.com/>.

**AUDIT FLOWCHART:**



## Gap 1

Prosecutors must make near-instantaneous decisions on charges, bail recommendations, disposition and sentence recommendations, often with sparse information on the facts of a particular incident and on the prior history between the parties involved, as well as with limited access to the full prior record of the defendant.

### Why/How is this Gap a Concern for Victims of Domestic Violence?

#### **Lack of Information:**

Gaps in exchanging information among professionals in the field and sparse or hurried reports, investigations, and assessments give prosecutors less of a foundation upon which to make decisions or recommendations on charging, bail, plea negotiations and trial strategy. This foundation weakens a bit more when combined with the post-Crawford (See Appendix H) legal climate faced by today's prosecutors and may result in relying more on victim testimony for prosecution. This is not a safe position for any domestic violence victim.

#### **Female Defendants:**

In addition to the obvious safety implications for all victims, there are additional ones for those who have used violence against their abusers. Besides the gaps described above, liability concerns and lack of training and experience in making self-defense or dominant aggressor determinations can lead to arrests of or charges against women who themselves are victims of violence. Additionally, Colorado statutes define "domestic violence offender" in very broad terms: any person involved in an incident between intimate partners may be subject to mandatory arrest upon a determination of probable cause. A victim of historical abuse who strikes out in frustration against her batterer would, under the application of Colorado statutes, be subject to arrest, prosecution and conviction as a "domestic violence offender" (See Appendix H). Statutory mandates prohibit law enforcement officers and prosecutors from evaluating contextual nuances in cases involving intimate partners. For these women, becoming a criminal defendant or being convicted of a criminal charge increases the power and control the offender has over them. They can become more isolated from resources to help them with safety and lose trust in systemic intervention. This is a real fear and a real concern, as a number of women in the focus groups said they would never call police again out of fear of being accused or arrested themselves. Arrest can lead to losing their children and homes, and yet many professionals in the field related anecdotes of female defendants being more likely to plead guilty quickly so they can get back to their lives and be with their children as fast as possible.

#### **Other Criminal Charges:**

Regarding victims whose abusers are involved in other criminal activity, the prosecutor may focus on a more easily provable charge that does not rely on the battered woman, such as a drug charge. While for

understandable reasons and good intentions, these other charges can then take precedence over misdemeanor domestic violence charges so that the violence does not get addressed by the system, and does not get viewed in a way helpful to the victim at sentencing or during probation. This can be dangerous for battered women whose partners are affiliated with gangs or drugs as the partner may use his associates, who are motivated to keep their own criminal activity concealed, to intimidate or threaten her to keep her isolated from police and prosecutors.

## What Contributes to the Gap?

### **Law Enforcement Investigations:**

Officers are trained to make arrests based upon a determination of probable cause. In domestic violence cases, an investigation adequate enough to make a legal probable cause determination sometimes is not enough to later prove a domestic violence case beyond a reasonable doubt, as victims often recant their initial statements or do not participate in the prosecution at all. Given the national attention placed on domestic violence cases, Colorado domestic violence arrest statutes, local domestic violence arrest policy, police liability for failure to act in domestic violence cases, and the budgetary inability to match caseload increases with staff increases, the pressure to quickly make arrests is a strong competitor against prosecutorial needs for evidence and fuller investigations. This could be especially true of younger officers or officers with little domestic violence experience. As one experienced officer pointed out, his less experienced colleagues may feel their jobs would be in jeopardy if they do not make an arrest in a domestic violence case.

The systemic tension experienced by law enforcement officers to find probable cause for an arrest versus enough for proving the elements of a crime beyond a reasonable doubt is also experienced by victims, suspects and other witnesses to domestic violence crimes:

- Focus groups with battered women in this jurisdiction produced observations and experiences such as: “I wasn’t interviewed;” “I did not get to tell my story;” “Nobody followed up with me;” “He called 911 and they assumed he was the victim;” “They did not figure out the situation.” One TESSA advocate interviewed for this audit gave a couple examples of women who said they were not taken out of earshot of the offender when asked to tell what happened and they felt pressured into giving a less than full account of the incident. Audit Team members observed several resource issues for law enforcement officers that impact their documentation of domestic violence cases. Officers write their reports, which can take longer than dictating or word processing them. Officers in this jurisdiction do receive basic domestic violence training. They do use a victim information sheet upon which officers can check boxes about protection orders, weapons, injuries, emotional state and whether the offender had been violent before or made threats. However, there are no reminders, aids (such as pocket cards) or consistent supervision mechanisms (such as supervisory checklists) that outline essential elements of a report. Law enforcement is pressured by high calls for service, staffing shortages, the time intensive nature of a

domestic violence investigation, and meeting response times. One can see how reports and investigations become abbreviated.

- The prosecution files contained copies of requests from prosecutors to produce the recordings of the 911 calls made in these cases. However, during the prosecutors focus group conducted for this Audit, prosecutors said that 911 recordings sometimes were not available at the trial readiness stage. One of the women in the battered women’s focus groups said that her 911 call was not available for a trial that was scheduled in her case, and one of the Audit Team members was personally aware of a similar occurrence in another matter set for trial. The system for electronic storage and retrieval of 911 calls is accessible by the district attorney’s office, so this issue appears to be related to time resources and/or staffing. The 911 supervisor and a chief deputy district attorney indicated the volume of requests for calls was high. Prosecutors said they needed 911 recordings quickly in order to evaluate their quality and evidentiary value, as well as comply with the right the defense has to discovery. One person contributing to this report pointed out that having these recordings earlier could also be helpful to prosecutors during the charging stage and gave examples from other jurisdictions where 911 recordings helped substantiate more serious charges, helped substantiate a self-defense claim, and helped make a dominant aggressor determination.
- Battered women from the focus groups and a number of professionals in the field interviewed for this audit mentioned that statements made by the offender in the officer’s presence, but outside the interview setting, (e.g., when the officer first arrives, when the officer is transporting or booking the offender) often do not get captured in law enforcement reports.
- One professional interviewed expressed concern whether, given the volume of cases, there is sufficient availability of expert witnesses who could educate juries about common themes in domestic violence cases, such as continuing a relationship with the offender, and minimizing or recanting the initial report to police. Some prosecutors and TESSA advocates in El Paso County have had training regarding the use of an expert witness at domestic violence trials, but recently there has been some policy discussion at the national level as to what kind of message the extensive use of advocates as expert witnesses sends to battered women who may wish to confide in them, use their services, or receive their support. Expert witnesses are a resource issue for prosecutors – not only a “person” resource, but also a time resource in finding others and developing/preparing them to educate the jury.
- In addition to the focus groups with battered women and the interviews with criminal justice professionals in the field, the prosecutor files reviewed for this audit also revealed several missed opportunities for documenting admissions by the offender or statements by witnesses:
  - Offenders that are gone upon police arrival and who get arrested days or weeks later by another officer often are not interviewed (See Cases 5, 9, 12, 16, 17)<sup>1</sup>.

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<sup>1</sup> Data Charts were created on each case that was analyzed during the text analysis phase of the Audit. Due to the file’s size, the charts were not attached to this Audit Report. However, this Audit Report and the associated Data Charts are accessible on the District Attorney’s website: [www.dao.elpasoco.com](http://www.dao.elpasoco.com). (See bottom of page 26 for further explanation)

- There were several cases where it appeared there was someone, in addition to the victim and the suspect, who witnessed the violence but either was not interviewed or was not identified so that someone else could interview them later (See Cases 1, 3, 4, 7, 14, 16, 18, 24). Concern about unidentified witnesses was also voiced during a prosecutor focus group, along with the acknowledgement that one is asking officers to “knock on doors and try to find independent witnesses but they do not have time or resources.”
- Generally, statements or records from emergency medical response personnel who respond to victims on the scene are not collected. Victims who go to the hospital after an incident often make statements to emergency room doctors who are frequently named as witnesses. However, many have become reluctant or resistant to testifying at trials. The victims’ medical records may have the statement included, but permission to release these records is often not obtained from the victim. Even when the records are obtained, they are not admissible in court without the testimony of the doctor. Interviews with professionals in the field and subsequent team member discussions pointed out differing views on whose role it was to collect this information. Is it the law enforcement officer’s role to interview another responder or the prosecutor’s role to obtain these records later? If the victim does not want to sign a release of information, whose role is it to discuss it with her? If the victim does not understand the release, what practitioner has the resource of time to explain it to her or find someone who speaks her language if she does not speak English? These questions take on more importance when placed in the environment of a Fast Track<sup>2</sup> prosecution system. If a medical release is not obtained at the time of the incident, getting it does not become any easier weeks later. If a victim does not sign a release for medical records to be obtained, the remaining option for a prosecutor to prove the injury is to subpoena the medical facility. Unfortunately, delay is inherent in this process; completing the legally sufficient paperwork, having subpoenas reviewed, and getting signatures from the appropriate authorities are all time consuming activities. Additionally, there are potential costs for the district attorney’s office, as some medical facilities charge fees associated with copying and certifying medical records that have been subpoenaed, even if the purpose of the subpoena is a criminal case in which one of their patients was victimized.

When reviewing files, the team also observed that printed call screens, pictures of the scene, clothing, broken phones, other physical evidence and pictures of victims’ injuries all help prosecutors get convictions without relying on the victim’s statement or court appearances, but that some law enforcement responses did not include this level of evidence gathering.

Prosecutors in the focus group indicated it is difficult to contact responding officers to get more information. Contributing factors include: shift work necessitates sleeping during the day, non traditional days off duty,

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<sup>2</sup> Under Colorado Law, anyone arrested for domestic violence is held in custody and brought before a judge within 24 hours. Under the El Paso County Fast Track program, defendants are advised, issued a bond and given a plea offer by the district attorney at their first court appearance (See Appendix G for a more detailed description).

changing shifts to cover for officers who are off duty and just the nature of the job (in the field as opposed to sitting by a telephone or computer).

Audit Team members discussing these observations noted that DV advocates at TESSA sometimes photograph victims' injuries, but the district attorney's office does not have access to them; TESSA advocates are bound by confidentiality laws not to disperse this information. However, these advocates could ask victims for permission to give photos to law enforcement or the district attorney's office if needed. It was not clear if this was done consistently, if there was a policy regarding it, or if TESSA staff had training on taking good quality photos.

### **Charging Decisions:**

While one typically thinks of the prosecutor as responsible for charging, Audit Team members who observed issuances of bond noted that Court Services acts on the information given to them by law enforcement. Bond is based on the number of and seriousness of the charges for which the suspect is arrested. While prosecutors can add charges later, and often do, as evidenced by the prosecution files reviewed for this safety audit, the window of opportunity to do this can be very limited in a Fast Track system. Knowing this, some professionals in the field who were interviewed expressed a desire that officers would utilize more charges when arresting suspects; for example, arresting suspects for both third degree assault and harassment instead of just third degree assault. However, these interviews and subsequent team member discussions again pointed out differing views on whose role it was to affect charging policy this way – law enforcement or prosecution?

Law Enforcement officers/deputies generally thought prosecutors to be the ultimate decision-makers; some even making comments along the lines of expecting prosecutors to “figure things out,” make decisions regarding dual arrests, or add additional charges. Prosecutors, on the other hand, felt unable at times to make fully informed decisions based on limited information received. Some officers operate under some misperceptions about the Fast Track system. They assume that defendants in the fast-track system will receive a disposition immediately, which is not always the case, and that the word “fast” means that the need for detail is not the same as in other cases, when in fact, more detail is needed. Prosecutors have very little time to review reports and follow-up on cases. There is only one investigator for county court<sup>3</sup>, which is not enough staffing, and so the investigator has no time for domestic violence investigation and follow-up.

### **Victim Contact and Victim Participation in the Prosecution:**

Although prosecutors and their supervisors are aware of the value of vertical prosecution (the same prosecutor handles a case from start to finish), they were frank in acknowledging that vertical prosecution is often not

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<sup>3</sup> In El Paso County, all domestic violence related cases are filed in the County Court system. No such cases are filed in any of the municipal courts within El Paso County.

possible with today's caseload and staffing levels. When a case gets transferred to another prosecutor, the decision-making difficulties caused by lack of information and time (described above) are magnified. Victims and others involved in the case are uncertain who "owns" the case and who to contact about it. Victim contact can be the ball that gets dropped; this was confirmed by several women in the battered women's focus groups. Prosecutors said that sometimes their attempts to contact victims were unsuccessful because the victim had moved and the prosecutor had no secondary contact information, or the victim simply did not return calls or respond to mail. Time constraints require prosecutors to prioritize their tasks. Priority is given to those cases going to trial. However, due to the volume of cases, these cases are often not reviewed and victims are not contacted until just days before trial.

Although the majority of cases are set for trial (60%), most do not go to trial because they are either dismissed or a disposition is negotiated. Prosecutors negotiate dispositions with defendants and defense counsel based on the nature of the crime, the level of injury, if any, information provided by the arresting officer, the defendant's criminal history, the likelihood of success at trial and victim input. However, victims in this jurisdiction primarily have input at the "front end" of the prosecution process in regard to bond and the mandatory protection order. Even then, Audit Team members observing the advocacy provided at Fast Track noted that victims often did not understand terminology used during bond discussions or the levels/types of bond available. Persons providing advocacy generally did not ask victims open-ended questions that may have alleviated some of the confusion and may have provided more comprehensive input from victims, such as "Why do you want/do not want a no contact order? Why do you want the bail set at that level?" However, even if such questions were asked, the busy, fast-moving environment of a Fast Track courtroom may not be conducive to conversations of this sort, especially if victims are concerned about being seen or heard by others. Similarly, Audit Team members observing the personal recognizance (PR) bond investigation/recommendation process noted that both during the interview and on the questionnaire, there are no specific questions addressing domestic violence and no input from the victim regarding the case. The prosecutors and judge often had little information about the context of the incident or people involved. These observations were confirmed during the prosecutor focus group, where prosecutors related similar experiences and concerns, and in the team's review of prosecution files, which revealed the files often did not contain historical information about the parties' relationship or the abuse.

During subsequent Audit Team meetings and discussions, several team members observed how this stage of prosecution exemplified both the benefit and the difficulty that accompanies Fast Track prosecution systems. That is, most cases are disposed of quickly, which provides finality, closure, safety and accountability more quickly; on the other hand, this quickness can be intimidating for some, and can create information-gathering problems for the prosecutors and judge who are in charge of this fast-moving process. As one team member said, "At times, we may only be getting a snap shot of an incident instead of the pattern or history of

violence.” Again, prosecutors are a collecting point for the information of others, upon which prosecutors then have to make very important decisions to hold offenders accountable and keep victims safe.

Dealing with limited information, time and victim contact within the shortened parameters of a Fast Track system often leaves the prosecutor with the testimony of the victim to prove the bulk of the case. This is not necessarily bad or wrong, but may be too much pressure for an unprepared victim; some of the 30 prosecutor files reviewed by the Audit Team indicated that the victim did not appear for trial. One TESSA DV advocate interviewed for this Audit said women told her that they are scared to testify in front of the defendant, feel confused or overwhelmed by the system, and feel frustrated when they do not have contact with the prosecution about the case. Several women in the battered women’s focus groups reported being intimidated by the offender throughout the process or being afraid of retaliation from him if viewed as cooperating with the prosecutor. One of these women said she was “raked over the coals” by a defense attorney during a jury trial which ended in an acquittal. This woman is black and older than her ex-partner. Although not stated directly, the woman had the impression that a responding officer thought she was loud or assertive (a stereotype that sometimes plays out negatively for black female victims of domestic violence) and that the defense attorney “played her off” to the jury as “some kind of predator” for dating a younger man (at 36, she was 10 years older than her ex-partner). After the acquittal, the defendant in that case then committed a felony assault on her, which at the time of this Audit was being prepared for trial. She said the prosecutor was pressing her to testify again in the new case, but that she did not “want to go through that again.”

All of these pressures on battered women are especially true of women who do not speak English. Advocates working with such women said they sometimes do not go to court: they are afraid, they do not know their rights in this country, offenders threaten to send them back to their country of origin, they do not know if they need to be in court and they do not understand the process. Victims whose spouses are in the military sometimes do not want to participate in prosecution because they think they are ending their partner’s career. During the prosecutor’s focus group, examples were given of defense attorneys asking victims questions such as, “What are you going to do when your partner gets kicked out of the military?”

These cases where the victim did not appear were then dismissed (when planning the Audit, the team requested that some dismissed files be included in the group of files to be reviewed). The stated reason for each dismissal was because the victim did not appear and the prosecutor, defense or judge did not believe the case could proceed without her (See Cases 8, 15). Interviews with professionals in the field revealed that defendants are generally aware of this practice and usually opt for trial in hopes of escaping a conviction. Furthermore, some victims and advocates felt that such cases ended up skewing the way that professionals in the field perceived the victims of these cases in the future, i.e., that victims’ credibility was impacted so that law enforcement may not perceive future calls from these victims as seriously or that attorneys and judges

may mentally classify them as “bad witnesses or uncooperative victims.” Rarely does someone ask why the victim recanted her statements or why she did not show up.

There were instances of cases dismissed when the victim did not appear for trial that did have photographs, and adequate demeanor and excited utterance information documented by an officer or a witness. File notes did not indicate any other information about the dismissal, other than the victim’s non-appearance, so audit team members were unable to draw any conclusions about prosecutorial decision-making in these instances. Some logical inferences that could perhaps be drawn from observations of and interviews with professionals in the field are that: (1) even with photographs and police testimony, the brevity of many law enforcement reports still leaves a lot of leeway for a defendant to come up with an explanation, (2) asking for a continuance to find the victim or to further investigate is not likely to be successful, (3) the still-developing post-Crawford era of legal developments and strategies leaves the ability to prosecute without victim participation less certain.

### **Female Defendants:**

Audit Team members observing Fast Track saw that defendants sometimes either appeared not to understand all information being given, the implications of pleading guilty (not being able to own a gun, being deported) or were focused on “getting out of jail today.” This was especially concerning in cases where women were alleged to have used violence and it was not clear if a self-defense or dominant aggressor assessment had yet been made.

Some professionals in the field interviewed related their anecdotal experience that female defendants often are quicker to enter into a plea agreement in order to return to their children as soon as possible; Audit Team members observing Fast Track observed this scenario on several occasions. This sort of plea can be a long-term safety problem, as it does not stop the violence and may isolate victims of violence even further from the help they need. A TESSA advocate who works with battered women gave examples of battered women who had been arrested and made the decision not to call 911 in the future due to fear of re-arrest. This was also stated by several women in the victim focus groups who had been arrested or threatened with arrest. These women also commented on the lack of attorney representation in these situations, citing specifically their awareness of the availability of an attorney for their partner, their own ineligibility for public defender representation, or the fact that the partner controls funds so that an attorney cannot be retained. When attorneys are obtained, there are issues relating to the failure of defense attorneys to return calls and perceived pressure from defense attorneys to “take the deal.”

### **Communication:**

Law enforcement and other professionals in the field expressed a lack of knowledge about what happens after case disposition. Several officers/deputies interviewed for this audit said they would like to be informed of

the disposition of their cases, and any reasons for dismissal or charge reduction, to better learn what prosecutors need in order to hold offenders accountable. According to supervisors, there are dispositional memos that are forwarded to responding or investigating officers; however, the person in charge of delivering these memos has become overwhelmed with volume and with similar tasks that have resulted in delays in officers getting this information. There appears to be recognition on the part of many professionals in the field that getting feedback about case disposition and offender compliance is an important way to enhance ongoing risk assessment and safety planning.

**What Would Address the Gap?**

- DEFINITIONS** (See Appendix F for Complete List of Audit Trails):
- **Policies & Procedures:** Include laws, court rulings, legislative mandates, requirements or regulations of federal, state, county and city regulating bodies, agency policies and directives, and policies of related organizations. They direct and guide the management of the institution.
  - **Administrative Practices:** Include all of the methods that an institution uses to standardize how professionals in the field carry out its policies, laws, regulations, and mandates. Most administrative processes involve the use of what professionals in the field refer to as “paperwork.”
  - **Resources:** Include the ways that a community allocates and ensures the quality of funding, materials, processes, and personnel needed to address the problem.
  - **Linkages:** Include the ways that professionals in the field link with other workers, other intervention processes, the people they serve, and their communities.
  - **Training/Education:** Includes formal training, informal training (experience with and training by more seasoned workers), ongoing skill-building, and exposure to different concepts, theories, and conceptual practices.

**RECOMMENDATIONS:**

POLICIES & PROCEDURES

- Law Enforcement and Prosecution should review policies to ensure guidance is clear on determining and documenting self-defense and dominant aggressor in situations where both parties are alleged to have used violence.
- Law Enforcement, Prosecution, Probation and DV Advocates should develop policy and/or procedures to support information sharing for post-plea considerations for self-defending victims.
- Law Enforcement should review current policy on “gone on arrivals.” Create and implement a plan to:
  - More efficiently locate offenders who have left the scene of a domestic violence crime before police arrival.
  - Designate a timeframe within which to convert pickups to warrants.
  - Make all pickups and warrants accessible through the existing NCIC/CCIC database.
  - Review extradition policies.
  - Coordinate with other agencies regarding arrest, i.e., communicating regularly with probation officers who may be supervising offenders, communicating with advocates who may have obtained new location information from victims, carrying out “sweeps” with other agencies.

- Law Enforcement and Prosecution should review current policy on collecting medical evidence. Determine whose role it is to explain and obtain a victim's signed release of medical records.
- Law Enforcement, Prosecution and TESSA should review current policy on collecting photographic evidence.
- Law Enforcement and Prosecution should review current policy to ensure guidance is clear on obtaining and safely storing secondary contact information for victims and on follow-up investigation needed for domestic violence cases. Develop policy regarding who should be contacted for follow-up when new developments occur and/or when offenders are alleged to be intimidating victims and witnesses.
- Law Enforcement should review and/or modify their General Orders and Standard Operating Procedures for Domestic Disturbances in order to provide a framework, guide officers/deputies, and set priorities for an effective response. Officers/Deputies should be trained regularly on these General Orders.
- Arresting officers/deputies should ask the victim for names and numbers of two people who can always reach him/her in order to enhance victim notification and/or future victim communications.
- During their investigation, Law Enforcement should consider the account of events, explore self-defense and probable cause, collect all physical evidence, canvass the neighborhood, interview witnesses and document appropriate information, interview the suspect and document any admissions and/or threats made.
- Detentions should revise booking procedures in order to block all calls to victims in the case.
- Probation and state-approved evaluators should assess and evaluate all domestic violence offenders, including misdemeanor cases, and provide individualized recommendations in a report prior to sentencing.
- TESSA should develop a fact-finding process for female defendants arrested for domestic violence that are in jail or appear in Fast Track, including specific questions asked about the incident, context of the violence and any other coercive behaviors in the abusive relationship. If permitted, provide the additional information to other professionals in the field.
- Prosecution should develop and consistently follow procedures to incorporate child abuse evaluations/treatment into the plea agreement when appropriate.
- Where any charge in a pending case has a factual basis of domestic violence, the Deputy District Attorney should offer a plea agreement that preserves the domestic violence designation and requires state-mandated treatment. This domestic violence factual basis should be reiterated to the court at every critical stage of the case.
- County Court should be organized in a way to allow for all of a defendant's cases, where the court has jurisdiction, to be transferred to one division. If a defendant elects to go to trial at Fast Track, the trial should be held in the defendant's "home" division.
- When granting continuances, County Court Judges should consider victim safety, the likelihood of future trial, speedy trial and the adverse effects on the defendant.

- Courts should base the amount of time allotted for jury selection on the complexity of each individual case.

### ADMINISTRATIVE PRACTICES

- Law Enforcement should develop a Law Enforcement Investigation Checklist, a Report Writing Checklist, and a Resource Pocket Card to assist officers/deputies in their investigations. Refer to *St. Louis County Sheriff's Office Domestic Violence Handbook and Training Guide for Patrol Deputies* (Pence, 2001).
  - Law Enforcement should obtain additional information about the suspect, including: prior arrests, probationary status, status of court-ordered offender treatment, and existence of a protection order. This information should be included in the report.
  - Law Enforcement should consider “totality of circumstances, which refers to all information and evidence available to the [officers/]deputies including, but not limited to: information from [Communication Centers]; statements from all parties; observations made by [officers/]deputies; physical evidence that corroborates, or conflicts with a party’s account of events; the demeanor and emotional state of parties (including children); a [officer’s/]deputy’s prudent and cautious judgment of the credibility of statements; and reliable information about past incidents involving a suspect” (Pence, 2001) when determining probable cause.
  - Law Enforcement Supervisors should review and approve all PC Affidavits and DV Complaints prior to the suspect being booked in jail. Develop a method to notify the prosecutor’s office prior to court the next day if additional investigative information is forthcoming and the disposition of the case should be postponed.
  - If Law Enforcement arrests a suspect on a domestic violence related charge(s) and the officer can verify the terms of the Mandatory Protection Order when the suspect is on a deferred sentence or probation, then Law Enforcement should charge that suspect with a Violation of the terms of the Mandatory Protection Order, if probable cause exists. If Law Enforcement charges a suspect with Third Degree Assault, the arresting officer/deputy should also charge Harassment.
  - Law Enforcement should develop guidelines to assist officers/deputies in determining self-defense, including four important points: (1) the person using force had a reasonable belief that s/he was at risk of bodily harm (ask: What did you think was going to happen?), (2) the risk of harm is actual or imminent, (3) the use of force was reasonably necessary to prevent infliction of bodily harm (the standard is level of force, not its effectiveness; most violence by victims of battering is ineffective, but that does not mean it is not a form of self-defense), and (4) the use of force is based on the beliefs the person has about the above issues at the time of the incident, not on the intent of the person making the threat (Pence, 2001).
- Law Enforcement should review the current Law Enforcement Domestic Violence Report form in order to capture all relevant investigative information.

- Law Enforcement should provide supervisors with a supervisory checklist with which to review reports.
- Personal Recognizance (PR) Bond Commissioners should collaborate with DV professionals to create a specialized DV questionnaire to collect information relevant to the case<sup>4</sup>. The Fast Track Magistrate should provide a thorough explanation of the Personal Recognizance Bond during Fast Track.
- Fourth Judicial District Courts should work with the State Judicial Department to create a method to designate felony domestic violence cases as such on Eclipse (the current court database).
- Courts should develop a mechanism for victims to get a Temporary Protection Order and Mandatory Protection Order at the same time in Fast Track to reduce the number of times victims must appear in court.
- Law Enforcement and Prosecution should develop a system to effectively disseminate disposition information to individual officers.

### RESOURCES

- Elected officials in the Fourth Judicial District should make budgetary modifications to hire additional officers/deputies and prosecutors in order to decrease response times, to allow for more in-depth investigations, enhanced case preparation for trial, and follow-up on cases.
- Law Enforcement should review current resource allocations for report writing. Create and implement a plan to alleviate officers' "time crunch" when hand-writing reports and affidavits.
- Law enforcement should appoint at least one internal DV Resource Officer/Deputy per division to assist in the initial response, DV investigations, report review, follow-up on cases, and coordination with other agencies.
- TESSA should increase the number of domestic violence advocates available to officers/deputies during the initial response and/or investigation.
- Law Enforcement and Prosecution should enhance and utilize access to 911 recordings.
- Prosecution should prepare each case for trial as if the victim is not available, utilizing 911 and jail recordings, subpoenas for independent witnesses and secure expert witness testimony.
- Prosecution should improve the recruitment, training, and utilization of expert witnesses, to include advocacy, law enforcement, therapists, and academic, at all appropriate stages in the criminal justice process.
- Law Enforcement, Prosecution, Probation and the Department of Human Services should improve access to data systems that allow professionals in the field to have access to criminal history, protection orders, wants/warrants/summons from local and national sources, and probation/deferred sentence information.

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<sup>4</sup> For more information, contact the Battered Women's Justice Project for studies, surveys and instruments related to the setting of bail, such as the [Bail Commissioner Domestic Violence Curriculum and Training Project](#) funded by the Maine Justice Assistance Council, the [Pretrial Service Programming at the Start of the 21<sup>st</sup> Century](#) published by the Bureau of Justice Assistance.

- Law Enforcement should increase data access for Communication Centers, including information relating to protection orders, probation, and/or deferred sentences. This information could be relayed to responding officers/deputies.

### LINKAGES

- Prosecution should create a mechanism by which professionals in the field can engage in the near instantaneous exchange of information about a case prior to appearance in Fast Track. For example, create an email account for the acting Fast Track Deputy District Attorney to access information submitted by agencies such as Law Enforcement, Detentions, TESSA and Probation.
- Detentions Deputies should document all threats made by a defendant during booking and incarceration and send to the Fast Track Deputy District Attorney.
- Prosecution and Law Enforcement should foster a relationship with doctors and other medical personnel to facilitate cooperation.
- Policymakers and Supervisors with input into the structure of Fast Track should come together and formulate a plan on when it is appropriate to modify Fast Track procedures to enhance victim safety and offender accountability.
- Community leaders should create multi-disciplinary work groups to develop and implement procedures to ensure the efficient flow of information between law enforcement, probation, prosecution, advocacy, courts, and all other affected agencies.
- Community leaders should coordinate the scope and frequency of appropriate victim contact across agencies:
  - Clarify practitioner roles, purpose and timeliness in contacting victims.
  - Define roles/responsibilities in utilizing victim contacts to safely update victim contact/location information and safety concerns.
  - Define roles/responsibilities in utilizing victim contacts to provide information on resources or case processing.

### TRAINING/EDUCATION

- Community leaders should conduct multi-disciplinary (communication centers, law enforcement, prosecution, advocacy, probation) training on determining probable cause, self-defense and dominant aggressor. This training should include legal concepts, such as the totality of circumstances (including interviewing both parties and any additional witnesses), to be considered when making probable cause determinations. Training should also include at what point and by whom these determinations should be made.
  - Multi-disciplinary training (as opposed to separate training for Communication Centers, police, prosecutors and advocates) is recommended so that all professionals in the field can hear the

questions and problems experienced and addressed by others and how one decision by one professional may impact other professionals who work on a case.

- Community leaders should conduct multi-disciplinary training on the current status of post-Crawford case law development and its impact on domestic violence evidence gathering, charging and prosecution strategies, including testimonial versus non-testimonial statements, forfeiture by wrong doing, and ongoing emergency analysis.
  - Multi-disciplinary training is recommended as gathering information on the intimidation of a domestic violence victim is needed from all professionals in the field, not just prosecutors. The intimidation of a victim may include historical information about the victim’s relationship with the offender.
- Community leaders should conduct training for professionals in the field on the interviewing and documentation skills needed in their particular roles.
  - Include specialized questions relating to victims who cooperate, victims who recant, expert witnesses, and practitioners who witness excited utterances.
- Community leaders should conduct multi-disciplinary training on the additional risks and systemic barriers perceived or experienced by women of color, women in immigrant communities, women who do not speak English and women whose partners are in the military.
- Prosecutors should conduct training for DV advocates with prosecutors on preparing victims for what to expect from defense attorneys and doing what is possible as a prosecutor to protect victims from feeling unsafe, intimidated, or embarrassed by aggressive defense attorneys (for example, use pre-trial motions or objections at trial when possible to prevent “bad victim” defenses).
- Community leaders should conduct multidisciplinary training and develop more effective ways to better inform victims from the initial contact and throughout the judicial process on the following topics (this list is not exhaustive): (1) the Fast Track process, (2) their options regarding protection orders, (3) when/how the defendant will get out of jail, (4) how to increase his/her safety, (5) how to get in touch with the District Attorney’s Office about the pending prosecution, (6) the victim’s rights, (7) how to access help and/or related resources, and (8) the differences between a Temporary Protection Order, Permanent Protection Order, a Mandatory Protection Order, and an Emergency Protection Order.
- Community leaders should conduct ongoing multidisciplinary training on the following (this list is not exhaustive): (1) evidence collection, (2) firearms restrictions, (3) DV dynamics, (4) stalking behavior, (5) assessing for risk/lethality, (6) evidence-based prosecution procedures, (7) collecting photographic evidence, (8) interviewing and documentation techniques, (9) understanding intent/impact of violence, (10) understanding women’s use of violence, (11) effects of domestic violence on children, (12) Crawford/Hammond/Davis, (13) domestic violence-related charges (including the most commonly missed charges), (14) indicators of defensive injuries, (15) differences between Temporary Protection Orders, Permanent Protection Orders, Emergency Protection Orders, and Mandatory Protection Orders, (16)

offender manipulation strategies, (17) how professionals can provide more effective courtroom testimony, (18) dominant aggressor, and (19) roles/responsibilities of each criminal justice system agency.

- Law Enforcement, Prosecution, Probation and the Department of Human Services should conduct training to improve knowledge about gathering information from other communities' internal criminal justice databases (in addition to NCIC).

## Gap 2

Risk assessment and safety planning are not institutionalized consistently among and between the District Attorney's office and professionals in the field whose work prosecutors rely upon (911 staff, law enforcement officers, advocates, court staff, defense attorneys, probation officers).

### Why/How is this Gap a Concern for Victims of Domestic Violence?

#### **Risk Assessment is Imperative:**

When concepts, practices and instruments labeled "risk assessment," "danger assessment," "threat assessment," "lethality assessment" and "safety planning" first evolved, training on them often left trainees with the impression that these were single assessments of and interviews with a victim done by a domestic violence advocate, or were profiles done of an offender by some sort of expert. Assessments, interviews and profiles are certainly important and helpful parts of risk assessment. But research and published material on successful coordinated community responses to domestic violence are clear that a common philosophy of domestic violence, held by all professionals in the field, is imperative and that every professional's contact with a victim and an offender is an opportunity for risk assessment and safety planning. Risk assessment and safety planning are not finite actions that are only performed once in a case, but are processes that should be happening continuously. The safety of all victims is at stake.

The lack of risk assessment knowledge and skill at every stage of intervention can result in the violence being minimized by: misdemeanors being charged instead of felonies, dispositions being offered that otherwise may not have been, the offender being held less accountable, and potentially, victims being prosecuted as defendants. Thorough and effective risk assessment includes consideration of strangulation, pregnancy, cultural and language barriers, substance abuse, history of the violence and other contextual factors.

#### **The Safety of the Children is Also at Stake:**

In most of the 30 prosecution files reviewed for this audit, the parties either had children, or there were children present during the violence. Risks faced by the children in these files strongly demonstrate the problems in not institutionalizing risk assessment throughout our interventions (See Cases 3, 4, 6, 7, 8, 13, and 16).

#### **Battered Women Arrested for Using Violence:**

Inconsistent institutionalization of risk assessment is also problematic for battered women arrested for using violence. A Fast Track domestic violence system may proceed too quickly for prosecutors to determine the dominate aggressor or self-defense claims. Audit Team members who observed the Fast Track process saw women plead guilty at a higher rate than male defendants.

During a focus group of advocates from TESSA, several pointed out that in a Fast Track system, battered women who have been arrested for using violence do not see the long term consequences of being prosecuted, such as barriers to certain kinds of employment, being viewed by divorce court as an unsafe parent, and being stuck with the label of an abuser by interveners who may respond to the family in the future. In the battered women's focus groups, a few women stated that they were reluctant to call law enforcement for help again and stated that the offender maintained even more control over them after they pled guilty. These experiences may be a result of inadequate risk and lethality assessments.

### **What Contributes to the Gap?**

#### **Lack of Knowledge about Medically Serious Events:**

- **Strangulation:** Battered women, advocates, police and prosecutors may not be aware of the medical seriousness of strangulation, which in recent years has been the subject of training curricula. It is generally accepted that a few pounds of pressure applied for a few seconds can result in brain damage or death, and there have been anecdotal reports of miscarriage, aneurysm or stroke suffered after being strangled. Some states have passed laws criminalizing attempts to strangle. Of the 30 prosecution files reviewed by the audit team, nine involved reports of some form of strangulation (See Cases 4, 7, 8, 11, 12, 14, 16, 24, and 25). Not being aware of the medical seriousness of strangulation can impact how risk in these cases is viewed, documented and whether or not further action is taken. Written statements by victims, police reports, victim input forms completed by advocates and prosecutor file notes usually used the word “choking” (obstructed airway) instead of “strangulation” (a deliberate act by someone else to restrict breathing). Except for the responding officer’s observation and photographing of neck injuries, and a prosecution file notation that strangulation cases were ineligible for deferred sentencing, there was no further follow-up documented by anyone in the cases above to assess risk, to provide safety or medical information, or to substantiate heightened charging.
- **Pregnancy:** Some battered women, advocates, police and prosecutors may be unaware of the medical seriousness for both women and their unborn babies of being battered while pregnant. Three of the 30 files involved pregnant women who were victimized (See Cases 6, 14, 20). Except for the officer documenting the fact of pregnancy (which results in a more severe sentence) and whether the victim desired medical attention, there was no further follow-up documented by anyone to assess risk, to provide safety or medical information.

#### **Documentation of the Victim’s Perceived Danger or Fear:**

While reviewing the prosecution files pulled for this Audit, Team members observed that the law enforcement report, PR bond report, prosecution file annotations, and Fast Track victim input forms often did not acknowledge and/or document the victim’s perceived danger or fear either because there was not a question

on the form or the professional did not ask for victim input. The victim's emotional state, including her level of fear, is important for several reasons:

- Emotional state may form the basis for the admission of victim statements in court as excited utterances.
- Emotional state may be an indicator of possible forfeiture by wrongdoing of the defendant under Crawford (If the defendant procures the unavailability of the victim, the victim statements are admissible).
- The victim's fear level may be predictive of the victim's willingness to participate in the prosecution of the case.
- If victims are afraid, we need to make an effort to maintain frequent contacts with the victim in order to provide support, referrals and encouragement.
- Information would assist the PR Bond Commissioners in assessing victim safety, which is a statutory consideration when the court sets bond.
- Victim input on mandatory protection orders, even on the weekends, allows the court to tailor the order to the specifics of each case.

If a victim's emotional state is not acknowledged and/or documented, the victim's danger, fear and safety may not be addressed throughout her experience with the system. Risk assessment cannot be a discrete, one-time function performed by one person; it must be knowledge shared by everyone, a skill applied by everyone, and an assessment used by everyone to consistently ensure victim safety.

### **Collecting and Documenting Prior History:**

Professionals in the field who have contact with a victim at different points in the system are not always aware of the value of obtaining prior history to better aid their own risk assessment. Furthermore, they are not always aware of how that information might aid the next professional who has contact with the victim. For example, Audit Team members discovered that premise or phone number history is not always accessed by 911 call takers or requested by officers, prosecutors or bond commissioners. Audit Team members who rode along with law enforcement officers noted evidence of some officers' lack of awareness of the importance for victim safety and of the helpfulness for prosecution of gathering information about the intent and the impact of violence.

During the victim focus groups, some women said it did not seem like the officers responding to their calls heard or were able to apply information, such as the offender's criminal history or the offender's substance abuse, to better analyze the situation and assess danger. The Audit Team's review of files, which include the police report of the incident, resulted in similar impressions.

An interview with a TESSA advocate indicated that some historical information is necessary to assess risk or help other professionals in the field do their jobs. This information provides police, prosecutors, judges,

juries and probation officers some insight as to the motivation of offenders, who make *choices* as opposed to “losing control.” She gave the example of what is lost when an officer does not acknowledge or report whose property was damaged or taken during the incident; the items taken or damaged often belongs to the victim or have sentimental value to the victim.

Unfortunately, professionals in the field have limited resources to collect and document this information. Officers handwrite their reports in order to make them available to prosecutors in Fast Track the following day. The pressure to complete reports quickly often wins out over writing reports with more detail. A Fast Track system does not provide much time for prosecutors or advocates to talk to victims and/or document detailed information about risk factors.

There is no single database that prosecutors can access to get all criminal record information. Most prosecutor files contained a combination of printouts from the local Master Name Index (which may list someone as a victim, suspect or witness to a listed incident), local law enforcement databases (which list arrests but not necessarily dispositions and list arrests for not only the initial crime but also any failures to appear in court related to that crime), and hand-written criminal history lists by the bond investigator (the source of which is often unknown). Someone trying to do a responsible reading of the file to prepare for an appearance could end up spending more time trying to understand the defendant’s history within the system than understanding the facts of the case (See Case 7).

### **Criminal Offense Classification:**

Problems with institutionalizing and consistently applying risk assessment occur not only among the various professionals in the field, but also among the different ways we classify cases (misdemeanor versus felony). There are inconsistencies between the bond determinations of misdemeanor and felony domestic violence cases. Statutory schemes view felonies as more serious than misdemeanors. However, misdemeanants who are arrested often receive higher bonds based upon prior arrest for domestic violence; whereas felony bonds are based on a bond schedule regardless of arrest history. There are also inconsistencies in the impositions of probation. Defendants originally charged with a felony who plea to or are convicted of a misdemeanor often get unsupervised probation. In felony cases, orders for domestic violence treatment (which is mandatory under Colorado law) are sporadic. Those charged with and convicted of a misdemeanor receive supervised probation and orders for treatment consistently.

Domestic violence cases are not always clearly denoted on the court’s computer system. An interview with the Domestic Violence Case Monitor<sup>5</sup> pointed out that cases in County Court are clearly identified as

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<sup>5</sup> The Greenbook Project created and funded the Domestic Violence Case Monitor to monitor compliance on all misdemeanor domestic violence deferred sentences

domestic violence, but cases in District Court are not clearly identified. This creates problems for those attempting to gather an accurate criminal history, or otherwise attempting to assess risk.

As stated earlier in this report in regards to charging, these classification issues minimize the crime and the potential harm the defendant poses, misleading the next professional who will work with the case. Likewise, the victim, offender and the public in general are misled about the risk or danger posed by the offender and how the system views it.

### **Uncertainty about Interviewing and Documenting Children:**

Many of the women in the battered women's focus groups had children. Most of the prosecution files examined for this Audit indicated that the parties involved had children; however, very little was documented about the children and consideration of their connection to the case disposition.

Many criminal justice professionals interviewed or observed for this audit were frank about their desire for more policy guidance in reference to children's experience with the violence. Guidance could include: when to interview children and for what purpose, appropriate documentation about children, more education and training on assessing child safety, and skill building or experience in respectfully communicating with children of different ages. Additionally, more clarity is needed in reference to how and when to apply for emergency custody orders for child victims of domestic violence, and in making appropriate referrals to Safe Passage (formerly the Children's Advocacy Center) and/or to the Department of Human Services.

In addition to the policy and training issues, there is also a resource issue in accessing local expertise. Safe Passage prioritizes its time for children involved in felony-level sexual assault cases. Most domestic violence cases are misdemeanors, so there does not appear to be many opportunities to use the expertise or assistance of Safe Passage staff. If a practitioner felt strongly about the need for Safe Passage involvement in a misdemeanor domestic violence case, he or she would have to justify the request.

There is also the lack of inclusion of children in forms used to collect information. For example, the Audit Team members reviewing forms noted that the Fast Track Victim Input Form lacks information on children and thus misses an opportunity to contribute information for risk assessment.

### **Victim Notification:**

Once risk is identified, safety information and safety planning are things that all professionals in the field should offer to the victim. Simply keeping victims informed is one of the most basic ways to assist them in planning for their own safety. While observing Fast Track and the local jail, Audit Team members observed a number of notification issues:

- Starting with the “blue sheet” that law enforcement gives to victims, the various papers, forms and brochures received by victims do not incorporate information about Fast Track, i.e., what it is, what happens and what are the rights of victims and offenders.
- In discussing interviews and observations they conducted with local officers, and observations conducted of Fast Track, Audit Team members realized that some officers and advocates are unfamiliar with aspects of the overall judicial process, Fast Track and some of the resources for domestic violence victims in this community. Officers in this situation are not able to give brief referrals or explanations to victims that may impact their safety. One practitioner interviewed for this Audit gave the example of officers responding to domestic calls where the offender is gone upon their arrival, then not explaining to the victim that there will be a “pick up” order issued and that if the offender returns to the residence, the police should be called. The offender often continues to harass and threaten the victim and the victim is unaware of the “pick up” that should have been issued.
- Fast Track Advocates sometimes lack knowledge of other justice processes (such as temporary or permanent protection orders) or resources in the community and therefore may have fewer options to discuss with victims.
- The Fast Track courtroom was observed to be “chaotic.” Physical space limitations offer little opportunity for private conversation between victims and advocates from the District Attorney’s Office, and time limitations give little opportunity for a victim who does not understand the system or process to ask questions. Even something as simple, but as important as, identifying the players can be overlooked; one courtroom observer gave the example of women not knowing who the TESSA advocates were in the courtroom, as no one proactively identified them. An advocate interviewed for this Audit said there was no policy on what TESSA advocates should do in court. Some feel it is more respectful to wait for victims to approach them, while other advocates actively seek out victims to make contact. During a focus group of TESSA advocates, some said there were not enough of them to provide sufficient court support for the current caseload. If TESSA advocates are unable to show up to court that day, victims may not receive information on TESSA. The Fast Track docket is faxed to TESSA in the morning for a review by advocacy, but oftentimes the advocate who is assigned to Fast Track in the afternoon will never see the docket because they are at the courthouse all day. Advocates will not know if any of the female defendants were victims of prior domestic violence.
- There is often a lack of contact between victims and the District Attorney’s Office as the case progresses about such things as additional investigation, plea negotiations, and trial preparation. In discussing the information gleaned from this Audit, some team members were personally aware of victims who had not received timely notification of continuances and final case outcomes.
- Victims do not get a copy of the Mandatory Protection Order if it is issued on the weekend and many of these victims are not provided the opportunity to give input regarding bond and No Contact Orders.
- Inmates of the Criminal Justice Center (CJC) are not subject to a Mandatory Protection Order until the court enters the order the next day or upon video advisement on the weekends. Even though the Sheriff’s

deputies do their best to tell the defendant not to contact the victim, legally, the defendant can contact whomever they want up until they have been advised of the Mandatory Protection Order. Offenders often make attempts to contact the victim via telephone calls or mail both before and after the protection order is issued.

- CJC must attempt to notify the victim before the offender is scheduled for release. Definition of notification can include leaving a message on voice mail or leaving a message with another person. Notification can also be calling the appropriate Communication Center to send a car for manual notification, which is a low priority call. Sometimes offenders are released from jail and return to the victim's residence before law enforcement has a chance to personally notify the victim. During one of the battered women's focus groups, two women described instances of their abusers being let out of jail and showing up at the victim's residence hours before victims had received any sort of notification of his release from jail.
- A TESSA advocate interviewed for this Audit said one roadblock for victims is the lack of attorney representation to protect victims' rights, as there is for criminal defendants, and the perceived power imbalance this places victims in.

Barriers to providing adequate information to victims can have discouraging results for victims trying to be more informed and involved in safety planning. Battered women and advocates told team members that if victims do not know their rights and the resources that can help them, they do not know what to do next; they often "feel alone." They continue to be harassed, intimidated and abused by the offender through the entire process, and will most likely get back together with the offender. "We're lost and we don't know where to go, so we end up going back with these guys. People in the system are judgmental and they don't like it if you go back with him. But your friends and family have disowned you because of him, so you have no one else but the system, but the system does not give you what you need, so you go back with him."

#### **Victims Feel Intimidated by the Environment or Professionals in the Field:**

Audit Team members who observed Fast Track proceedings noticed that victims sometimes appeared uncomfortable being in the same space-limited courtroom as the defendant. There was no acknowledgement by anyone in the courtroom (law enforcement, attorneys, advocates, judges) of the victims who stated that he/she did not want to be seen by the defendant in court. No one intervened or said anything when offenders made faces or gestures to victims, mouthed comments to them, or stared at them. Additionally, an advocate interviewed for this Audit said one roadblock for victims is being scared to see or testify in front of the defendant in the courtroom.

Prosecutors pointed out that defense attorneys often have ongoing contact with the victim through the defendant, especially when the defendant and the victim continue to have contact. During the battered women's focus groups, several women felt that during the prosecution process their partner's defense

attorneys “harassed them just like their partners.” One prosecutor said that one of the many reasons victims do not want to participate in prosecuting offenders is that their abuse is minimized by defense attorneys in court.

There is an unfortunate systemic expectation of proactivity on the part of the victim immediately after she has been abused. Her morning may be taken up by talking to a Fast Track Victim Advocate, getting a Temporary Protection Order and talking to the Personal Recognizance bond investigator. Her afternoon may be taken up by going to Fast Track court. Afterward, she must deal with the emotional, mental and physical repercussions of the violence experienced the day before. It is difficult for a victim to get on with her life, hold down a job, and support her family and also attend pretrial conferences and the trial itself. A victim who attended one of the focus groups said: “It’s hard to almost have your life taken away, and then have to fight for justice. It’s hard, it’s stirring, and it’s scary to live through it all over again.” Other women talked generally about the difficulty of being proactive while scared and lost. The victim’s participation in the prosecution of her abuser is a significant drain upon her time and energy. Victims often choose not to, or perhaps even feel too overwhelmed to, participate in the prosecution of her offender. Even when victims choose to participate, they often move or change phone numbers causing the District Attorney’s office to lose contact with them, especially if they do not let anyone know where they are. As a result, the case may be dismissed, meaning that the offender will not be held accountable.

Victims whose offenders are in the military are often more isolated than other victims. Military victim advocacy can be confidential, which impedes reporting of violence to criminal justice authorities, and can also be non-confidential, which can deter victims from utilizing it. The military often appears to victims to be “on the side of the soldier” or looking at what is in the best interest of the soldier. Victims whose spouses are in the military sometimes do not cooperate with prosecution because they think they are ending their partner’s career. Defense attorneys have been heard to ask victims: “What are you going to do if he gets kicked out of the military?”

## What Would Address the Gap?

### **DEFINITIONS** (See Appendix F for Complete List of Audit Trails):

- **Policies & Procedures:** Include laws, court rulings, legislative mandates, requirements or regulations of federal, state, county and city regulating bodies, agency policies and directives, and policies of related organizations. They direct and guide the management of the institution.
- **Administrative Practices:** Include all of the methods that an institution uses to standardize how professionals in the field carry out its policies, laws, regulations, and mandates. Most administrative processes involve the use of what professionals in the field refer to as “paperwork.”
- **Resources:** Include the ways that a community allocates and ensures the quality of funding, materials, processes, and personnel needed to address the problem.
- **Linkages:** Include the ways that professionals in the field link with other workers, other intervention processes, the people they serve, and their communities.
- **Training/Education:** Includes formal training, informal training (experience with and training by more seasoned workers), ongoing skill-building, and exposure to different concepts, theories, and conceptual practices.

### **RECOMMENDATIONS:**

#### POLICIES & PROCEDURES

- Judiciary should create a Domestic Violence Court or a Family Court where all cases involving the defendant, the victim and the children are heard by the same judge.
- All professionals in the field should review and enhance their procedures for assessing risk during all stages of case processing.
- All professionals in the field should implement a policy to safety plan with all domestic violence victims and their children.
- Courts and Law Enforcement should consistently address offenders’ inappropriate courtroom behavior (i.e., gestures or facial expressions directed towards the victim).
- All professionals in the field should review or create policy that would encourage ongoing communication between agencies regarding case disposition, reasons for dismissals, offender compliance with supervision, or questions and feedback (i.e., email notifications, regular meetings or points of contact).
- District Courts and County Courts should review misdemeanor and felony processes to address disparities, conflicts, inconsistencies and inequities in holding domestic violence offenders accountable.
- Detentions should revise policies to ensure all available contact numbers for the victim are used in the notification process prior to the defendant’s release.
- All professionals in the field should review and modify policies relating to victim contact, victim notification (including court appearances, offender releases, and case developments and dispositions) and the sharing of information to enhance their safety and understanding of the criminal justice process.
- Law Enforcement should establish a Standard Operating Procedure which mandates that all calls for service be coded correctly, even if the coding takes place after the fact. For example, if the call for service is initially coded as a “noise disturbance” and it is later determined that the call is a domestic

disturbance, officers and deputies should be responsible for changing the code and writing any pertinent risk and lethality information in the comments section of the “CAD screen” even if no arrest is made. Additionally, information in the CAD system should be available to other criminal justice related agencies such as probation.

- TESSA should evaluate their policies and procedures relating to court support to ensure contact as well as consistency and quality in their response.
- Community leaders should encourage the Colorado Coalition Against Domestic Violence (CCADV) to advocate for legislation to revive the 72 hour Emergency Protection Orders (versus 24 hour protection orders).

#### ADMINISTRATIVE PRACTICES

- All professionals in the field should develop and utilize risk assessment tools (See Appendix J for Campbell’s Dangerousness Assessment).
- All professionals in the field should utilize standardized safety planning tools for use throughout the system.
- Courts and Prosecutors should ensure victims promptly receive copies of Mandatory Protection Orders.
- Systems-based and community-based advocates should create and implement a coordinated plan to explain to victims who is present in Fast Track and what their roles are.
- All professionals in the field should review and update all literature currently provided to domestic violence victims, including, but not limited to, information on Fast Track, system or process explanations and local resource information.
- All advocates in the field should be clearly identified in the courthouse to assist victims with accessing services.
- Law enforcement should ensure that a child witness’s behavior and demeanor are well documented in their reports.

#### RESOURCE RECOMMENDATIONS

- Community leaders should create and distribute a matrix that lists what databases are available, what information is contained in each, and who has access.
- Community leaders should create a method for more effectively sharing available information from those databases.
- Community leaders should begin to evaluate the reallocation of resources to create a method for delivering comprehensive victim services, similar to the Family Justice Center<sup>6</sup> concept.

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<sup>6</sup> The President’s Family Justice Center Initiative funds a select number of communities to provide comprehensive services for domestic violence victims at one location, including medical care, counseling, law enforcement assistance, social services, employment assistance, and housing assistance. Through an interagency effort led by the Justice Department, the Administration partners with local communities to help them create the centers. Above all, the backbone

- TESSA should have more advocates/volunteers at the court house to support victims of domestic violence through the protection order process.

#### LINKAGES

- Law Enforcement, Prosecution, Military Installations and DV Advocates should develop a procedure whereby each adult victim is contacted within 24-48 hours by the appropriate agency.
- TESSA, Safe Passage, CASA, additional child advocates and Law Enforcement should develop a protocol for an enhanced response to children on the scene of a domestic violence incident.
- Law Enforcement should allow DV advocates to access case reports.

#### TRAINING/EDUCATION

- Community leaders should conduct multi-disciplinary training and apply this knowledge to the roles and skills of professionals in the field (communication centers, law enforcement, jail, bond investigation, advocacy, courts, probation, civil bar, custody evaluation, parenting coordination, supervised visitation, child protection, medical service providers) on the following:
  - Risk assessment and safety planning for domestic violence victims and their children.
  - How to relate to children and address their needs (i.e., Position self at eye level with child, ask if they are okay, reassure them that you are there to help, and give them a child hotline number if available).
  - Determining dominant aggressor or self-defense claims.
  - Charging decisions and bond recommendations.
  - Identifying local resources and providing a basic explanation of system processes that victims may need to access.
  - Interviewing, documenting and communicating effectively with adult and child victims of family violence.
  - Medical seriousness of strangulation and the battering of pregnant women.
- Prosecutors should consider criminal history, established pattern of behavior between the parties, totality of circumstances, and other distinct factors present in each case while emphasizing adult/child victim safety during decision-making.

### Gap 3

Prosecutors are working in a system which, as a whole, has difficulty holding repeat offenders, stalkers and manipulators of the system accountable.

#### Why/How is this Gap a Concern for Victims of Domestic Violence?

##### **Repeat Offenders:**

Audit Team members expressed frustration with the cases they reviewed of offenders with lengthy records or who had repeatedly abused or harassed the same victim: “Why is this guy still out walking around? Why is he still not in jail?” If this is the reaction upon reading the case files, one can understand why the victims who live with this on a day-by-day, hour-by-hour basis become discouraged and do not see how prosecution is going to improve their safety or the quality of their lives (See Cases 4, 7, 14, 17, 22, 23).

##### **System Savvy Offenders:**

In addition to repeat offenders, there are other offenders who are very “system smart” and find ways to get victims arrested. During the TESSA advocate focus group, several relayed experiences with victims who had been arrested after offenders beat, scratched or bit themselves in order to convince police that they had been injured (See Cases 3, 8). Many professionals in the field relayed anecdotes of female defendants being more likely to “take the plea;” this, combined with the speed of a Fast Track system, may result in not having time to identify self-defense cases or not having time to craft better dispositions and sentences for battered women who illegally used violence. The end result is a victim of domestic violence who likely will not call police in the future and an offender who can maintain even more control over a victim who now has a criminal conviction and/or a probation sentence.

Victims with children often feel re-victimized by manipulative offenders because the offender now has many more arenas in which to “pull the strings:” criminal court, protection order court, divorce court, child custody court, not to mention the administration of probation, custody evaluation, parenting coordination, and supervised visitation. There is an “I’ve got to win” perspective by these offenders, and the women involved in relationships often get discouraged and give up.

Victims who abuse substances may not feel comfortable calling the police either. Two of the women attending the battered women’s focus groups identified themselves as having substance abuse issues. They did not call the police about the violence because they were afraid of their homes being searched for drugs, losing custody of their children, being convicted of a drug crime, and losing their jobs. In relaying their experiences, it became apparent that both young women were initially non-drug users coaxed into drug use by their partners and then coerced into other illegal drug activity. Physical violence followed, with the same

effective coercion to refrain from calling for help. Even now, as both women have extricated themselves from their relationships, they have not reported the violence to police or subsequent problems they have had with their still-drug abusing ex-partners. These women do not want to call police attention to their ex-partner's drug use out of fear that their ex-partners would "offer them up" to police to avoid being convicted of drug crimes themselves.

### What Contributes to the Gap?

#### **Offender Manipulation Skills and Strategies:**

According to advocates who work with women in the immigrant communities, offenders whose partners do not speak English often convince their victims that if they become involved in a police investigation, they (the victims) will be sent back to their country of origin.

System savvy offenders find ways to create a "bad victim" defense, including:

- Using aspects of life with illegal drugs (past or present use, possession, sale) to control their victims, knowing that battered women may lose all of their credibility with law enforcement if it comes to an officer's attention that the victim is a drug abuser. Being a drug abuser seems to suggest that you can no longer be a victim of domestic violence. One woman in the victim focus groups said she wished law enforcement officers would think to ask questions like, "Why is this woman on drugs?"
- Using the victim's mental or emotional state against her: "She's hysterical" or "She's crazy."
- Spreading negative or humiliating information or lies about the victim (See Cases 2, 19).

Offenders often list victims as their reference for their PR Bond interview. Team members observing Fast Track and PR bond noticed that victims sometimes did not understand bond levels and terminology when contacted. Therefore, victims are often confused about the reason for such contact and/or the implications of their cooperation. Some offenders knowingly list their victims as a reference in hopes that the victim's cooperation may erroneously lead professionals to believe that the victim is not scared or at risk for further abuse.

Offenders who have been granted child visitation or custody can use that to gain an advantage in criminal court. An advocate interviewed for this Audit gave the example of an offender who would not bring the child witnesses to court, nor make them accessible for interviewing. Offenders are vigilant in finding cracks, faults, gaps or breakdowns in the safety net for victims and are ready to step in to take advantage of them (See Case 7).

Manipulative offender behavior influences not only the victim's actions, but also the actions of Communication Centers, law enforcement, jail staff, bond commissioners, prosecutors and other attorneys,

probation officers, judges, custody evaluators, parenting coordinators, visitation supervisors and social workers. Offenders who have been through the system multiple times know how to manipulate and escape accountability. Professionals in the field are sometimes manipulated into believing the offender and may unintentionally collude with them. The savvy offender often appears more credible and more reasonable than the victim. Professionals in the field who do not guard against such manipulation may inadvertently skew investigations, arrest and charging decisions, risk assessments and safety planning. Offenders, then, will not be held appropriately accountable.

### **Lack of Recognition of Stalking, Harassment, and/or Repetitive Behavior:**

Victims in the focus groups said that the system players as a whole, including DV advocates, seem uneducated about or unable to recognize or hold offenders accountable for stalking or patterns of harassment. They cite examples of a lack of follow through on reports of protection order violations and the charges not reflecting the number of violations that actually occurred. Audit Team members who reviewed prosecution files found another example where the offender stole things from his victim's home and it was not charged appropriately (See Case 19).

Repetitive behavior, like violations of protection orders, can be difficult to charge and/or prosecute. An officer must establish the existence of an active protection order and then determine probable cause that a violation occurred. An unreliable system for verifying protection orders can further complicate this issue (See Case 23).

Audit Team members who conducted jail observations noted that inmates of CJC were not advised of their Mandatory Protection Order (MPO) until court the next day or upon video advisement on the weekends. Even though deputies do their best to tell inmates they are not to contact victims, defendants can legally contact whomever they want up until they have been advised of the MPO. It is not unusual for inmates to harass their victims from jail via telephone, including three-way calling, or letters.

### **Procedural and Evidentiary Decisions:**

The system's difficulty in recognizing and addressing offenders' repetitive behavior is apparent in the courtroom when procedural and evidentiary decisions are made. Most of the defendants opt for trial, believing that the victim will not appear or cooperate with the prosecution. An offender often does not retain an attorney right away and may request several continuances, which will likely be granted. Conversely, continuance requests made by prosecutors are generally not often granted. As a result, most defendants and their attorneys play the "waiting game," thinking the longer they wait, the less likely the victim will testify. They know whether or not the victim is cooperating with prosecutors, and will ask for continuances accordingly. If the defendant and his attorney know that the victim is not being cooperative with the District Attorney's Office, they often tell the court they are ready for trial in hopes that the case will then be dismissed

for failure to prosecute; this was evident in a number of prosecution files, as well as in personal experiences of professionals in the field.

Some judges will not grant prosecution motions to introduce evidence of similar transactions (i.e., previous charges) if the prior transactions did not result in a conviction or if the conviction was not related to the current case. Additionally, local prosecutors commented that even after all the public education in recent years about domestic violence, juries still do not seem to understand domestic violence dynamics, including victim recantation and offender manipulation. Some jurors still think domestic violence is a private issue, that men can “discipline” their wives, that domestic violence does not include sexual assault and so it is impossible for a man to rape his wife, that if a victim went back to the offender multiple times then the offender cannot be held accountable, and that domestic violence only affects the person it is directed toward, not the children who witness it. Jurors are also not educated on the different types of offenders and are reluctant to convict and hold them accountable for their actions. Unfortunately, the prosecution has only 15 minutes for jury selection in misdemeanor cases to explain domestic violence dynamics, determine whether or not a juror understands them, and explain what the victim may be experiencing.

Most dismissals are due to victim non-appearance. The District Attorney’s Office does not have the resources to ensure, through the subpoena powers of the court, that victims make it to court. Only in very serious cases do witnesses receive the personal service of subpoenas. The rest of the time subpoenas are mailed.

Prosecutors have fewer options in cases where there is limited information in the law enforcement report about the facts of the case, the prior history of abuse, or danger posed by the offender. They may feel their only option in these cases, despite how serious the allegations are, is to offer a deferred sentence or probation in order to contain the offender.

### **Inconsistencies in Handling Multiple Charges:**

In cases with multiple charges, the prosecutor may focus more on a higher charge (e.g., narcotics or property crime) than a domestic violence charge. Focusing on a non-domestic violence charge relieves a victim of any responsibility to testify and creates a felony “label” for the offender that should result in heightened judicial and corrections attention. These other charges then take precedence over misdemeanor domestic violence charges and the victim’s safety concerns often get lost.

District Court assigns all of a defendant’s active cases to one division. In contrast, defendants in County Court can have multiple cases assigned to multiple divisions, making it less likely that any division can understand the totality of circumstances. However, District Court does not have a Domestic Violence Case Monitor to oversee compliance with deferred sentences like County Court. Sometimes it may be more advantageous for the offender to commit a felony than a misdemeanor, so the offender has a chance at more

lenient treatment at sentencing. As cases travel between County Court and District Court, it becomes more difficult to assess for lethality and risk and to factor in context and totality of circumstances. There is little communication between District and County Courts. If an offender has multiple cases in multiple divisions in both courts, that lack of communication can result in conflicting orders and inconsistent views on risk assessment and on how to hold the offender accountable. System-savvy offenders are aware of these issues and have used them to their advantage (See Case 17).

### What Would Address the Gap?

#### **DEFINITIONS** (See Appendix F for Complete List of Audit Trails):

- **Policies & Procedures:** Include laws, court rulings, legislative mandates, requirements or regulations of federal, state, county and city regulating bodies, agency policies and directives, and policies of related organizations. They direct and guide the management of the institution.
- **Administrative Practices:** Include all of the methods that an institution uses to standardize how professionals in the field carry out its policies, laws, regulations, and mandates. Most administrative processes involve the use of what professionals in the field refer to as “paperwork.”
- **Resources:** Include the ways that a community allocates and ensures the quality of funding, materials, processes, and personnel needed to address the problem.
- **Linkages:** Include the ways that professionals in the field link with other workers, other intervention processes, the people they serve, and their communities.
- **Training/Education:** Includes formal training, informal training (experience with and training by more seasoned workers), ongoing skill-building, and exposure to different concepts, theories, and conceptual practices.

#### **RECOMMENDATIONS:**

##### POLICIES AND PROCEDURES

- Judiciary should create a Domestic Violence and/or Family Court, where all cases involving the defendant, the victim and the children are heard by the same judge.
  - Policymakers and Supervisors with authority should review current models of specialized dockets or courts, family courts or justice centers and/or unified courts.
- Community leaders should review current policies regarding the prioritization of cases with repeat domestic violence offenders, including stalking, repetitive harassment and protection order violation.  
Consider:
  - Exploring new and additional charges
  - Increased bond and more stringent sentencing recommendations
  - More consistent protection order enforcement and aggressive prosecution strategies
- Courts should issue written Mandatory Protection Orders in all criminal domestic violence cases on the appropriate form, as required by statute, and make copies easily available to victims.
- Community leaders should create strategies to promptly hold offenders accountable for intimidating or manipulative behavior (e.g., reviewing tapes of calls from the jails, forfeiture by wrongdoing motions).

- Judiciary (County and District Courts) and Prosecution should utilize the El Paso County Misdemeanor Domestic Violence Sentencing Guidelines (See Appendix K).

#### ADMINISTRATIVE PRACTICES

- Courts and Prosecutors should ensure victims promptly receive copies of Mandatory Protection Orders.
- Professionals in the field should develop and utilize options beyond criminal prosecution (i.e., initiate contact with family members, friends, landlord and/or employer, initiate other civil actions).
- Courts should develop an informational video to be viewed by defendants prior to court that may include the seriousness of domestic violence, its effects on children, the Mandatory Protection Order and the Fast Track process.
- Probation should create an email address to receive information regarding calls for service from law enforcement regarding Probationers.
- Law Enforcement should email Probation information regarding call for service contacts with current Probationers.

#### RESOURCES

- Responsible professionals should update the Protection Order Registry and all other databases containing protection order information, and implement a plan of frequent updating and quality control. Provide professionals in the field with the particulars of this plan so they are aware of any time lag in entering protection orders in the system.

#### LINKAGES

- Agencies that have offender contact or information should coordinate efforts to better communicate in order to increase offender accountability and containment.
- Agencies that have contact with victims should increase communication in order to coordinate the delivery of services to enhance victim safety.

#### TRAINING/EDUCATION

- Community leaders and responsible agencies should create and implement multi-disciplinary training (to include communication centers, law enforcement, bond investigation, prosecution, advocacy, probation, court, civil bar, custody evaluation, parenting coordination, visitation supervision, child protection, mental health professionals, treatment providers) on recognizing and containing offender manipulation of the system.
- Prosecutors should develop and implement ongoing domestic violence training (including current legal strategies, similar transaction evidence, juror selection, victim recantation, power and control dynamics, contextual analysis, and Crawford related issues).

- Responsible agencies should create and implement multi-disciplinary training on recognizing, documenting and charging stalking, repetitive harassment and protection order violations, as well as supervising such offenders in jail and on probation.
- TESSA should create and implement regular training for offender treatment provider victim advocates.
- Offender Treatment Providers should mandate training for their victim advocates.
- Court staff should be trained to accurately enter protection order data to assist officers/deputies in the field.

## Gap 4

Prosecutors deal with battered women who, in addition to the criminal justice system, are also involved with other legal or administrative systems intervening in the violence (i.e., divorce court, child custody and visitation proceedings, protection order hearings, child protective services, the military). Professionals in these other legal or administrative systems do not necessarily have the same training, philosophy or policy on battering that prosecutors have; there is not an institutionalized information exchange or coordination between them and prosecutors. As a result, there is sometimes a “working at cross purposes” effect on battered women, who can then be prone to lump all system players in one basket and feel mistrustful of all, be disempowered and become discouraged from communicating safety concerns to authorities in the future.

### Why/How is this Gap a Concern for Victims of Domestic Violence?

The safety audit was not conducted of the civil court process in El Paso County. It was conducted of the prosecutor’s office to examine what information/factors influence prosecutorial decision-making and case disposition in misdemeanor domestic violence cases as related to victim safety and offender accountability. The scope of the Audit was articulated that way because, unlike many other professionals in the criminal justice system who produce something akin to a report of their activity with victims (i.e., Communication Center’s tape or transcript, police report, pre-sentence investigations), a prosecutor is generally a collecting point for other professionals’ information, upon which a decision (to charge, to dismiss, to negotiate a plea, to go to trial) must then be made.

In the battered women’s focus groups, many women’s interactions with civil justice systems fostered enforcement and prosecution difficulties in the criminal justice system, mixed messages about domestic violence and intervention in these systems, and a wearing down of battered women that sets the stage for the information-receiving climate within which prosecutors have to work. This is true most often of victims with children who are trying to follow the advice we all give them to leave, to get a protection order or to get a divorce. These are the women faced with the involvement of multiple systems in their lives.

Multiple systems with inconsistent views of domestic violence are also problematic for battered women involved in incidents after which an arrest was not made or a prosecution not carried out. The criminal justice system is often the place where violence is first reported recognized, assessed, and referrals are made. Victims involved in incidents where an arrest was not made or prosecution was not carried out and the violence was not taken up consistently can end up without any helpful messages or information about domestic violence, as well as about the help or safety any of these systems can provide. These victims can fall between the cracks and get lost or get re-victimized by the system.

Battered women whose spouses are in the military may be dealing with a military justice system instead of, or in addition to, the civil and criminal justice systems. In addition to the goals of civilian justice systems, the

military justice system is also concerned with the good order and discipline of its members, and thus, can approach domestic violence differently in its handling of offenders and in providing advocacy for victims. Depending on with whom and how the victim shares information, the information may or may not be confidential, and the confidentiality status may or may not hamstring efforts to report the violence as a crime and hold the offender accountable.

Battered immigrant women may be dealing with agencies about citizenship status, work permits and benefits, and are often subject to additional control by offenders out of misplaced fear of authorities in general, of being deported or of losing custody of their children. These victims can be especially isolated and prone to mixed messages about violence and what various interveners will do about it.

For battered women who have been arrested for using violence against their partners or battered women who are substance abusers, their arrest can result in a sort of mental shorthand or efficient label for professionals in the field performing custody or psychological evaluations, Guardian ad Litem functions and mediation, who then never contextualize the violence and assess risk or safety.

### **What Contributes to the Gap?**

#### **Offenders Who Evade the System:**

A frustration that victims and law enforcement often experience in domestic violence calls for service is the offender who is “gone on arrival.” This situation can be exacerbated by the local practice of issuing pick-up orders instead of requesting warrants. That is, in an attempt to save the time and resources of preparing the legally necessary paperwork for a warrant, having it approved and signed by the proper authorities and entering it into databases, the mechanism of pick-up orders evolved. Pick-up orders are not in databases accessible to other law enforcement agencies and the judicial system. Thus, they are not as widely known about or as available to be researched as warrants. Audit Team members were personally aware of instances where offenders had successfully avoided being picked up for six months.

This frustration plays out similarly in regards to protection orders. If officers are unable to arrest the suspect because he/she flees the scene, a suspect who is successful at continuing to evade police can continue to harass and threaten the victim. In this situation, authorities cannot serve the suspect with any protection orders. This creates another situation that can be exacerbated by local policy; the definition of an attempt to serve process in this county is three days. After that, any more attempts to serve the paperwork are done when deputies have time, which is often during day shift when offenders are working or not at home. An Audit Team member pointed out that this may put a petitioner for a protection order in an unsafe position of being an investigator of an evasive respondent’s whereabouts. She had worked with a woman who contacted deputies about serving the respondent the protection order she was granted. They were not able to find him

and serve him in three days and did not have time on the day she was calling to make another attempt, so they suggested she or someone of her choice consider surveilling the house in which the respondent was suspected of living and notifying deputies when the respondent was there.

During one of the battered women's focus groups, a woman spoke of waiting for months for a protection order to be served and felt that at this point, to press for criminal prosecution of the domestic abuse she had suffered would escalate the situation, as the offender was not calling her and threatening her as much as he had been. She was not sure if she would call police again. At this point she was more concerned about the identity theft and credit fraud he was perpetrating (using her social security number for benefits and running up her credit card). She was in limbo – unable to get anyone to do anything about these frauds – as apparently various authorities told her it was civil and not criminal, that they did not have jurisdiction to take that type of complaint.

Another woman called law enforcement to tell them where her abuser was in order to serve the protection order and was advised that officers could not enter those premises (apparently the respondent would not answer the door) without proof and further legal support. While she understood she was being advised of a valid legal limitation on the part of the police, the woman indicated discouragement with systemic involvement in general: “What good does it do?”

In some instances these frustrations were increased by missed opportunities to serve respondents in court. The different courts do not or are not able to check to see if there is anything to be served on individuals appearing for court.

### **Retaliatory Orders:**

Due to training, policy and legal developments over the years, courts no longer issue dual protection orders (courts in many jurisdictions used to try to save the time it took to have hearings by getting both parties to agree to accept an order to stay away from each other, even though only one party had applied for such an order). However, sometimes after a victim successfully applies for and receives a protection order against the respondent, the respondent retaliates by then separately applying for and receiving an order against the victim. Both parties then have orders. The existence of two orders puts law enforcement and prosecution in a difficult if not impossible enforcement situation. Most advocates interviewed for this Audit had worked with women whose offenders had attempted or had carried out this strategy to further control the victim. They wished that there was some sort of quality control, cross checking for orders involving the same parties, or better connection with the criminal justice system “to see what's really going on.”

Additionally, protection orders are the relative “newcomers” to already-existing databases on criminal history and probation status/conditions. As such, there have been glitches here and there on the entry, or lack thereof,

of information on civil orders (e.g., orders in the system that have not been served yet, not being able to see expiration dates, lack of knowledge about when protection orders are taken out of the system and thus concern over whether they might be “old”). This sometimes leads to extra quality control concern on the part of police and prosecutors (“We’d better check first”) that can delay enforcement even more.

### **Balancing Victim Safety with Child Visitation and Custody:**

Another aspect of civil orders that often presents difficulties for prosecutors is the special conditions that courts handling protection orders, divorces, child visitation and custody sometimes issue if there are children involved. Battered mothers in the focus groups indicated that these conditions do not account for the impact of the violence on the children. Audit Team members reviewing prosecution files realized that these special conditions are also windows for contact with the victim and can make the victim appear to a judge or jury to be less scared or threatened during trials of protection order violations. And if the offender was granted custody of the children during civil proceedings, he/she is “in the driver’s seat” when it comes to making the children available for interviews or court testimony in criminal cases. It appeared to Audit Team members that this last situation could be tantamount to witness tampering for which the offender rarely, if ever, is held accountable.

### **Practitioner Assessment of Battering, Danger, Safety and Accountability:**

In addition to not accounting for the impact of violence on children, victims indicated that different players in different systems have mixed values and beliefs about victims and domestic violence, and that they (victims) were not always recognized as victims of domestic violence. Offenders can be suave in how they present themselves to the community. Interveners in divorce, child visitation and custody did not seem to have the same training as law enforcement on how offenders manipulate professionals in the field – “we just train them on how offenders offend.” Professionals in the field do not see beneath the surface of the smooth facade of the offender, court decisions do not then factor in the context of domestic violence or assess the risk to women and children, and offenders become better offenders. An offender can then successfully use the victim’s emotional state against her to lessen her credibility: “she’s hysterical,” “she’s crazy,” “she’s drunk,” “she’s high.”

Victims need more support from advocates, more domestic violence expertise from their attorneys, and more connection between criminal and other systems to feel like they have more credibility in front of judges and other decision-makers. A woman who was still dealing with what were now years of hearings related to visitation, child custody and child support told of having someone take pictures of injuries she sustained due to domestic violence and turning them over to her attorney, only to be told later that they had been lost. When she tried to follow up on how this happened, she received conflicting information as to where this happened (attorney’s office, opposing counsel, court clerk, courts) and the impression that it was not worth complaining about “because it does not matter in these proceedings anyway.” She had never called police or

talked to a prosecutor about her abuse because, “If he can convince them or control them [the attorneys, judges and other professionals involved in her divorce and custody matters], what’s going to happen in criminal court? He could turn it all on me.”

A theme of observations emerged from a number of interviews with professionals in the field and victims alike related to problems created by the lack of connection between civil and criminal courts:

- Divorce attorneys and divorce court gave some women the impression that domestic violence was irrelevant since Colorado is a no-fault divorce state. They did not often acknowledge the effect violence had or would have on the children, and either did not understand or want to believe offenders could still maintain power and control over their partners through the children after the divorce.
- Mediators and parental evaluators typically do not ask about abuse or take this information from victims who bring it up themselves.
- Criminal domestic violence charges and even convictions did not seem to impact divorce, child custody or dependency and neglect proceedings.
- Civil courts could be a part of a safety net for victims and their children and a part of the community response in holding offenders accountable, but they often are not because information from criminal court is not brought in.
- Offenders are able to skew other systems’ attempts to hold them accountable and in civil courts they are still considered safe parents.
- Audit Team members observed that officers did not often use non-arrest strategies, such as the Emergency Protection Order option or putting a hazard on the address in the computer-aided communication centers (CAD) system as an alternative to criminal charges.

### What Would Address the Gap?

#### **DEFINITIONS** (See Appendix F for Complete List of Audit Trails):

- **Policies & Procedures:** Include laws, court rulings, legislative mandates, requirements or regulations of federal, state, county and city regulating bodies, agency policies and directives, and policies of related organizations. They direct and guide the management of the institution.
- **Administrative Practices:** Include all of the methods that an institution uses to standardize how professionals in the field carry out its policies, laws, regulations, and mandates. Most administrative processes involve the use of what professionals in the field refer to as “paperwork.”
- **Resources:** Include the ways that a community allocates and ensures the quality of funding, materials, processes, and personnel needed to address the problem.
- **Linkages:** Include the ways that professionals in the field link with other workers, other intervention processes, the people they serve, and their communities.
- **Training/Education:** Includes formal training, informal training (experience with and training by more seasoned workers), ongoing skill-building, and exposure to different concepts, theories, and conceptual practices.

## RECOMMENDATIONS:

### POLICIES & PROCEDURES

- Judiciary should create a Domestic Violence Court or a Family Court where all cases involving the defendant, victim and children are heard by the same judge.
- Law Enforcement should review current policies on “gone on arrivals.” Create and implement plan a to:
  - Locate offenders who have left the scene of a domestic violence crime before police arrival.
  - Reconsider current practice of issuing pick-ups (which are not in all databases) instead of warrants.
  - Develop strategies to coordinate with other agencies for the effective service of warrants and pickups (communicating regularly with probation officers, advocates [if signed release], prosecutors and treatment providers).
- Law Enforcement should review current policies on service of process. Create and implement plan to:
  - Locate and serve respondents of protection orders.
  - Identify strategies to locate and serve evasive respondents, such as information-sharing with other agencies and professionals in the field, prioritizing the service of legal papers dealing with domestic violence, checking the names of individuals in court or in jail to see if they are awaiting service of protection orders, and guiding process servers of protection orders in going beyond delivering to documenting helpful location and safety information when available.
- Judicial officers should create a quality control check to avoid the issuance of conflicting and/or retaliatory orders. Create and implement a plan to:
  - Identify and evaluate cross petitions, complaints and/or motions.
  - Prevent conflicting orders between criminal and civil courts.
- Community leaders should examine the feasibility of creating a method for delivering comprehensive victim services, similar to the Family Justice Center<sup>7</sup> concept.

### ADMINISTRATIVE PRACTICES

- Prosecution should work with domestic violence advocates to enhance the special set of jury selection questions for domestic violence trials.
- Courts should design alternative methods for victims to get protection orders when the courthouse is open but after the Temporary Protection Order hearings have concluded. Currently, a victim cannot obtain a Temporary Protection Order between 10 AM and 5 PM (unless she/he filed the paperwork prior to 10 AM) and a victim is unable to obtain an Emergency Protection Order until after 5 PM.

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<sup>7</sup> The President’s Family Justice Center Initiative funds a select number of communities to provide comprehensive services for domestic violence victims at one location, including medical care, counseling, law enforcement assistance, social services, employment assistance, and housing assistance. Through an interagency effort led by the Justice Department, the Administration partners with local communities to help them create the centers. Above all, the backbone of the centers will be the local community through the dedicated efforts of community leaders, nonprofit agencies, corporate partners, government agencies, and caring individuals. (Department of Justice, 2003).

## RESOURCES

- Responsible agencies should allocate the staff resources necessary to clear the Protection Order Registry of outdated or erroneous information.
- Responsible agencies should research, develop and implement a system that is accessible to all agencies in order to identify the existence of unserved protection orders.

## LINKAGES

- Community leaders should reexamine the mission statements of their agencies in order to include the principles of communication, cooperation and collaboration.
- TESSA and Prosecution should coordinate ongoing advocacy services on a consistent basis when court support is needed for a victim.
- TESSA and Systems-Based Advocates should create a community coalition of Domestic Violence Advocates (including, at a minimum, offender treatment provider victim advocates, military, and law enforcement) to share appropriate information, cross train and to prevent the duplication of services.
- Professionals in the field should establish an ongoing community discussion group or web-based exchange on issues relating to domestic violence prosecution.

## TRAINING/EDUCATION

- Responsible agencies should create and implement multi-disciplinary (include, at a minimum, communication centers, law enforcement, prosecution, advocates, civil and criminal attorneys, judiciary and court staff, Guardians ad Litem, Child & Family Investigators, custody evaluators, parenting coordinators, and visitation supervisors) training on the enforcement of protection orders.
- Responsible agencies should create and implement multi-disciplinary training on the dynamics of battering and domestic violence, risk assessment, safety planning, and resources for victims.
- Prosecution should develop training on the importance of victim relations and communication.
- Prosecution should work with TESSA Advocates to develop effective ways to educate jurors in preparation for domestic violence trials.
- TESSA, in conjunction with other professionals in the field, should create and train specialized advocacy positions to allow expertise in areas such as criminal law, family law, public policy, immigration and housing.
- Child advocates, including TESSA, should implement training on the impact of domestic violence on children to professionals in the field, including Child and Family Investigators, Parental Evaluators, Mediators, Guardians ad Litem, attorneys and judges.

*Please note that this Safety Audit was not conducted of the civil court process and its interface with the criminal justice system. However, the Audit Team repeatedly identified issues relating to battered women's involvement with other legal or administrative systems intervening in the violence. Gap 4 contemplates broad systems changes and these recommendations are limited and general in nature.*

*The community should be guided by these recommendations in developing creative and innovative solutions to the problems identified.*

**SECTION III:  
APPENDIX**

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**APPENDIX A:  
GREENBOOK EXECUTIVE AND OVERSIGHT COMMITTEE MEMBERS**

**El Paso County Greenbook Partners**

The El Paso County Greenbook Project is governed by an Executive Committee. As fiscal agent, TESSA's Executive Director acted as the Project Chair throughout the course of the initiative. Starting in April 2004, the Executive Committee added a Project Co-Chair to share the responsibilities of project leadership. Each Executive Committee representative assumed the Co-Chair role for a 10-month cycle. Representatives on this decision-making body included:

- TESSA (Greenbook Fiscal Agent and Project Co-Chair)
- Family Representatives (Survivors of Family Violence)
- Fourth Judicial District Courts
- El Paso County Department of Human Services
- Colorado Springs Police Department (Domestic Violence Enhanced Response Team – DVERT)
- Court Appointed Special Advocates (CASA) of the Pikes Peak Region

Additionally, an Oversight Committee representative of various agencies in El Paso County provides guidance and recommendations to the Executive Committee. In addition to representation from Family Representatives, the agencies that signed an active Greenbook Memorandum of Understanding in 2005 include:

- Colorado Legal Services
- Colorado Springs Police Department, Domestic Violence Enhanced Response Team (DVERT)
- Court Appointed Special Advocates (CASA) of the Pikes Peak Region
- El Paso County Combined Courts, Fourth Judicial District
- El Paso County Department of Health & Environment
- El Paso County Department of Human Services
- The Family Center
- Fort Carson Army Community Service /Family Advocacy Program
- Office of the District Attorney, Fourth Judicial District
- Pikes Peak Mental Health Center
- Probation, Fourth Judicial District
- Safe Passage (formerly known as the Children's Advocacy Center)
- TESSA
- Urban League of the Pikes Peak Region

**APPENDIX B:  
MEMORANDUM OF UNDERSTANDING**

**Greenbook Project Institutional Safety and Accountability Audit  
Memorandum of Understanding  
September 2005**

**I. Background:**

- a. This MOU was developed as a result of discussions by the El Paso County Greenbook Judicial Integration Committee over the past year regarding the need to assess how victim safety and offender accountability is central to the processing of misdemeanor domestic violence cases.
- b. The Greenbook Project has secured grant funding to enable the Judicial Integration Committee to conduct a Family Violence Safety and Accountability Audit in El Paso County, Colorado.
- c. The Family Violence Safety and Accountability Audit (hereafter referred to as Audit) identified in this MOU agreement refers to the process developed in Duluth, Minnesota, by Ellen Pence and outlined in the Manual "The Duluth Safety and Accountability Audit, A Guide to Assessing Institutional responses to Domestic Violence."
- d. The Audit is a multidisciplinary, community-based process and has several steps: (1) forming and preparing an inter-agency Audit team (2) determining which aspects of case processing the team will investigate; (3) determining the scope of the investigation; (4) collecting data from each point of institutional action on a case, including the link or relationship between the data produced at different points of intervention; (5) analyzing the data; and (6) preparing findings that lead to specific recommendations.
- e. Data collection methods include text analysis (forms, documents, reports), interviews, observations, and focus groups. Analyzed texts relating to each step in the system response will be used to determine interview questions and the focus of observations and will generally help guide and develop the Audit process.
- f. A multidisciplinary Audit Team will examine how each institution charged with intervening in cases of domestic violence organizes their practitioners to perform their duties. Rather than attending to the idiosyncrasies of individual practitioners, the Audit looks instead at how, where, and if their formal and informal practices ensure the safety of victims and the accountability of offenders.
- g. Audit Team members will meet in small and large groups throughout the Audit process to discuss findings and propose changes to system practices that will enhance both victim safety and offender accountability.
- h. The Audit Team in El Paso County will be trained and assisted by consultants from Praxis International (Praxis). Praxis has been contracted by the federal Violence Against Women Office to provide technical assistance to the recipients of the Rural Domestic Violence and Child Victimization Grants since 1998. In addition, the Greenbook Project will provide funding for technical assistance from Praxis.

**II. Roles and Responsibilities**

**1. Audit Team Participation**

The following agencies have agreed to participate as a consistent member of the Audit Team:

- Office of the District Attorney, Fourth Judicial District
- TESSA
- Colorado Springs Police Department (Including Dispatch)

- Fourth Judicial District/County Court
- Fourth Judicial District Probation
- El Paso County Sheriff's Office
- Survivor of Domestic Violence/Spanish-Speaking
- Domestic Violence Case Monitor
- Greenbook Project Staff
- Audit Coordinator

AGENCY agrees to designate and provide time for a staff member who is interested and committed to the goals of this project to actively participate as a member of the Audit team. The designated staff member will attend two-day Audit training, participate in interviews and observations, and participate in Audit team meetings to analyze the data that is collected and to make recommendations for system changes, if needed. The Audit Team member is expected to dedicate eight hours per month to the audit process, which may be split into two meetings per month, over the course of one year. AGENCY leadership agrees to work closely with the designated Audit Team representative to provide honest, up-to-date information that will enhance the outcomes of the Audit.

**2. Text analysis**

- AGENCY will provide written information and documents to the Audit Coordinator that the agency/agency's designee determines is a) reasonable and b) will not compromise the safety of any victims.
- AGENCY agrees that any documents it provides that have identifying features of individuals, including advocates/therapists/staff, will be redacted (made anonymous) by the Audit Coordinator and/or the agency designee.
- Redacted reports or documents provided by AGENCY will be kept by the Audit Coordinator in a locked cabinet. The analysis will use excerpts from the reports, but will not identify any person or agency involved with the cases.

**3. Observations and Interviews**

- AGENCY will allow Audit team members and Praxis International consultants to interview, observe, and shadow/ride-a-long with practitioners in order to gather information on how domestic violence and similar cases are handled. Audit Team members will arrange for all observations/shadowing through a person designated by the AGENCY/Audit designee.
- The Audit Coordinator will be responsible for arranging and scheduling all interviews and observations. The Audit Coordinator will arrange for all observations through person designated by the AGENCY/Audit Designee.

**4. Implementation of Audit team Recommendations**

- AGENCY agrees to review the Audit team's findings and recommendations, and work with the Audit team to implement recommended changes to the fullest degree possible.*

Signatures:

By \_\_\_\_\_ Date \_\_\_\_\_

By \_\_\_\_\_ Date \_\_\_\_\_

**APPENDIX C:  
CONFIDENTIALITY AGREEMENT**

**El Paso County Safety and Accountability Audit  
Audit Team Confidentiality Agreement**

The Audit work includes collecting data from each point of institutional action on a domestic violence case, including the link or relationship between the data produced at different points of intervention, and analyzing the data.

Audit Team members (local and Praxis) will meet in small and large groups throughout the Audit process to discuss the data collected. Efforts will be made to remove personal identifying information from any case files and other materials to be reviewed (to produce a “redacted” record). Domestic violence victims and offenders are entitled to have their identity and information treated in a safe, secure, and confidential manner.

Working to ensure clear professional boundaries and the integrity of the Audit process, and to protect the privacy of community individuals, Audit Team members agree to the following:

1. The data collected and distributed by the Audit Team members acting in the capacity of the Audit Team is intended only for use in conducting the Praxis Safety and Accountability Audit and to inform the Audit Team and policy makers on the need for changes in the intervention practices.
2. Any materials containing case information distributed to the Audit Team members for conducting their Audit work will be kept confidential and returned as requested on designated dates.
3. Audit Team members will avoid speculating about the identity of any particular parent, child, practitioner, or other individual with any of the redacted cases.
4. In public presentations, training, or other settings outside of Audit Team meetings, Audit Team members will not discuss the details of any case being analyzed in such a manner that the identity of clients involved could be recognized.
5. Audit Team members will not record any personal identifying information of clients, such as names and addresses, in their notes. They will maintain the confidentiality of each person and situation they may come into contact with.
6. Audit Team members will not remove any forms, files, or other records containing personal identifying information, unless specifically agreed upon.
7. Audit Team members will sign a confidentiality agreement as requested and provided by each agency.

Audit Team Member Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

PLEASE RETURN THIS SIGNED ORIGINAL TO THE AUDIT COORDINATOR

<b>APPENDIX D: INTERVIEWS AND OBSERVATIONS LIST</b>
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**Safety and Accountability Audit Interview and Observation List****Interviews**

CSPD Communications Center Operator (2)  
EPSO Transport Deputy  
EPSO Court Deputy  
EPSOCJC Deputy  
TESSA Advocate  
Director of Advocacy at TESSA  
Fast Track Magistrate  
CSPD Detective  
County Court Judge (3)  
County Court Deputy District Attorney (3)  
Probation Officer, DV Unit  
Court Interpreter  
ACS Family Advocacy Program Manager  
Domestic Violence Case Monitor  
Fast Track Paralegal  
Fast Track Victim Advocate Coordinator  
Fast Track Victim Advocate (Volunteer)  
DVERT Detective  
DVERT Advocate

**Observations**

CSPD Communications Center Operator  
EPSO CJC Booking (2)  
EPSO CJC Release (2)  
EPSO Transport Deputy  
EPSO Court Deputy  
Fast Track Victim Advocacy  
EPSO CJC Video Arraignments  
Fast Track  
County Court Domestic Violence Trial

**Combined Interview and Observation**

Fast Track District Attorney  
CSPD Communications Center Operator (2)  
Bond Commissioner, Department of Justice Services (2)  
CSPD Ride Along (3)  
Sheriff's Office Ride Along (2)  
Probation Officer, DV Unit (2)

**APPENDIX E:  
PRAXIS INTERNATIONAL'S PROBLEMATIC FEATURES OF INSTITUTIONS OF SOCIAL  
MANAGEMENT**

**Problematic Features of Institutions of Social Management**

1. Fragmented:
  - Complex lives are divided into distinct cases (e.g., crime, housing, child protection, divorce, welfare)
  - Each case is divided into processing steps
  - Each step is divided into sub-steps
  - Specialization: Specialists are hired for each step
  - De-contextualizing: Each event is a separate case
  
2. Textually Coordinated:
  - Texts define relations
  - Texts embody institutional thinking
  - Texts create forms of consciousness
  - Texts standardize workers actions
  - The file “stands in for” real people
  - Texts separate actions
  
3. Reliant on the Use of Categories:
  - Lumps dissimilar events/situations together
  - Connects situations to the discourse; not necessarily what’s really going on
  - Oversimplifies complex situations
  - Generates a specific institutional action
  - Converts lived experience to something institutionally recognizable
  - ...and much more
  
4. Operate on a Time Different than Lived Time:
  - Institutional routines control time
  - Institutional time overrides lived time
  - Has different meanings for people being acted upon than for those doing the acting
  
5. Privilege Institutional Functioning Over Individual Needs:
  - Job function over people’s needs
  - Agency mission, worker function sets narrow course of activity
  - Customs of neutrality, professionalism, and objectivity act against workers advocating for clients
  
6. Create Communication Without Dialogue:
  - People become data points
  - No give and take...participation
  - Communication framed and filtered through forms, rules, liability concerns, etc.
  - People’s experiences become an instance of the professional discourse
  
7. Engage in Conceptual Practices that Organize How Workers Think and Act:
  - The circumstances of the real world are instances of what can be explained in the discourse
  - Discourse is produced by groups that have political and social power
  - Competing discourses are common
  - The discourse makes people institutionally actionable
  
8. Create a Fictitious Universal Person as a Standard:
  - A “fictitious universal person” based on ideological myths is produced and used as a standard
  - Real people treated in relationship to universal person and norms
  - Social status and corresponding risks are not adequately accounted for
  - Resulting cultural imposition is veiled

9. Mask Institutional Limitations and Failures
  - Limited resources fail people, but are not discussed
  - No documentation of impact of ineffective resources
  - Failures are attributed to aspects of the case or the people in the case, but not the institutional structure
  - Limited incentives for critical review
10. Have Weak Systems of Accountability to the People Whose Lives are Being Managed
  - Accountability system is adversarial within a structure with substantial power differences
  - Lack of accountability to people whose lives are being processed as a case
  - Embedded in processes – not people
  - Agencies are vulnerable to political attacks
11. Use Coercion to Gain Compliance
  - Covert and overt institutional authority to use coercion
  - Institutions have varying climates that promote or tolerate abuse of its power
  - The objectification of the people being managed in the discourse and specific practices promotes abuse
12. Individualize the Social
  - People are plucked from their families, neighborhoods, social and economic settings and treated as if independent of them
  - Social problems are treated as individual pathologies
  - Problems that are linked together (poverty, violence, illiteracy, homelessness, etc.) are treated as separate phenomenon experienced by individuals rather than groups

(Praxis International and Battered Women's Justice Project Audit Training Curriculum, 2005)

**APPENDIX F:  
PRAXIS INSTITUTIONAL SAFETY AND ACCOUNTABILITY AUDIT TRAILS**

**AUDIT TRAILS** (Pence & Sadusky, 2005)

1. **Rules and Regulations** include laws; court rulings; legislative mandates; requirements or regulations of federal, state, county, and city regulating bodies; agency policies and directives; and policies of organizations, such as insurance companies and medical facilities. They direct and guide the management of the institution.
2. **Administrative Practices** include all of the methods that an institution uses to standardize how practitioners carry out its policies, laws, regulations, and mandates. Most administrative practices processes involve the use of texts, such as screening forms, case documentation forms, matrices, guidelines, report writing formats, routing instructions and protocols, and other examples of what practitioners refer to as “paperwork.”
3. **Resources** include the ways that a community allocates and ensures the quality of funding, materials, processes, and personnel needed to address the problem – in our case, the problem of woman abuse within intimate relationships. Resources include everything necessary to accomplish the following: workers do their jobs without compromising victim safety or offender accountability (includes case load size, technology, supervision and support services); victims of abuse position themselves in safer situations (includes housing, skilled counseling, financial help, legal representation); intervening systems hold offenders accountable (includes jail space, enough supervision time, high quality rehabilitation and treatment services, and practitioners who are well prepared to deal with men of diverse economic, ethnic, and religious backgrounds).
4. **Concepts and Theories** include language, categories, theories, assumptions, philosophical frameworks, and other methods and ways that institutions organize workers to think, talk, and write about the cases and the people whose experiences are being managed as cases.
5. **Linkages** include ways that institutions link practitioners to other workers and other intervention processes; ways that practitioners are linked to the people whose cases they process; and ways that practitioners are linked to process and people outside their community.
6. **Mission, Purpose and Function:**
  - **Mission** concerns the overall process, the overarching purpose of a system such as criminal court or child protection. Presumably, every action and case processing step within the institution or agency reflects that mission.
  - **Purpose** refers to the institutional purpose of a specific process within that overarching mission, such as booking, arraignment, and pre-trial hearings.
  - **Function** is the function of a practitioner, in a specific context.
7. **Accountability** holds specific meanings in relationship to the Audit Process. It includes the ways that institutional practices are organized to accomplish the following: hold individuals accountable for the harm they have done and are likely to cause without effective intervention; hold practitioners accountable to the people whose lives are being managed; and hold practitioners accountable to other interveners in the system.
8. **Education and Training** include the following: the ways different disciplines organize workers to understand their jobs and the social phenomena related to their work; formal ways that agencies train their workers to think about and act on cases; informal ways that workers learn their jobs through experience and training by more seasoned workers; exposure to different concepts, theories, and conceptual practices; and ongoing skill building that enables workers to effectively intervene in domestic assault cases involving diverse population.
9. **To Be Discovered**...Don't let these eight categories limit the boundaries of your investigation.

**APPENDIX G:  
A NARRATIVE CASE FLOW OF THE AUDIT AGENCIES**

**El Paso County Institutional Safety & Accountability Audit Agencies:  
Mission Statements, Structures, Domestic Violence Procedures, Strengths and Challenges**

- Colorado Springs Police Department’s Public Safety Communications Center..... Page 78
- Colorado Springs Police Department..... Page 82
- El Paso County Sheriff’s Office..... Page 85
- Office of the District Attorney..... Page 88
- Fourth Judicial District Probation Department..... Page 90
- TESSA..... Page 93

**COLORADO SPRINGS POLICE DEPARTMENT’S  
PUBLIC SAFETY COMMUNICATIONS CENTER**  
Prepared by Karen Lincoln, Senior Analyst

**Mission Statement:**

The mission of the Colorado Springs Police Department’s Public Safety Communications Center (“Communications Center”) is to serve the community by providing exceptional police, fire, and emergency medical services to the citizens of Colorado Springs, members of the police and fire community, and other service agencies in a timely, competent, accurate, compassionate and professional manner.

**Overview:**

The Communications Center answers all of the incoming 911 calls in the Colorado Springs area, as well as all of the wireless telephone calls throughout the region. Additionally, employees answer all non-emergency requests for police assistance. The Communications Center is staffed by a Communications Manager, a Senior Analyst, six Supervisors, 45 Public Safety Dispatchers, 37 Emergency Response Technicians (ERTs) and one clerical assistant. On average, these employees process over 50,000 requests for police, fire and medical assistance every month. In 2005, the Communications Center answered 10,331 calls from citizens requesting help in domestic violence situations<sup>8</sup>.

Domestic Violence calls for service are classified as Priority One unless they are past events or the suspect is not on the scene with the reporting victim (Priority One represents a life threatening situation that requires an immediate response by police, fire or medical personnel). The Colorado Springs Police Department’s Public Safety Communications Center considers Domestic Violence to be a serious call, and our employees are thoroughly trained to meet this need. Emergency Response Technicians (ERT) receive 6 weeks of classroom instruction and a minimum of 6 weeks with a trainer in the live environment. Public Safety Dispatchers receive 9 weeks of classroom instruction and a minimum of 26 weeks with a trainer in the live environment.

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<sup>8</sup> A number of calls that are answered are identified immediately as domestic violence. Other calls are not classified as domestic violence, but later are determined to be domestic disputes. Changes to the priority should be made with the knowledge of the person who took the call and/or the communications supervisor.

## **Procedures:**

The procedure for answering emergency telephone calls is outlined in the training program and follows a standardized format:

1. Each 911 call is answered, “**Colorado Springs 911, what is the location of your emergency?**” The location is the most important piece of information to obtain, since without it, Communications would not be able to send a response of any kind. The Enhanced 911 system provides Automated Number Information (ANI) and Automated Location Information (ALI). The ERT must confirm the location of the occurrence since it may be different from the location of the calling party. This information is entered into the Computed Aided Dispatch (CAD) system.
2. After the address is established and verified, the next question is, “**What is the telephone number you are calling from?**” This is necessary information because if the ERT loses contact with the caller, he/she will need to try and get the caller back on the phone.
3. The next piece of information requested is the **caller’s name**. The caller’s name is often used as a means for the ERT to calm the caller if he or she is upset or hysterical.
4. The next question is, “**Can you tell me exactly what happened?**” This question narrows the focus of the caller to explain what happened or is happening in relevant detail. This question is the catalyst for the ERT to determine what type of help is needed, i.e., police, fire, medical or a combination of services.
5. The ERT will **select the appropriate procedure to obtain additional information** to enter into the CAD system. There are procedures in place to address callers who are in immediate danger and cannot speak freely with the ERT. Domestic disturbance calls require the following information for an effective public safety response:
  - Is the disturbance physical or verbal?
  - Suspect name and/or physical description
  - Suspect vehicle description
  - Were weapons involved or mentioned?
  - If so – what type of weapon? What is the location of the weapon?
  - Are children present? If so, what are their ages?
  - Are drugs or alcohol involved?
  - Is there a court order in place?
  - Is anyone injured? If the caller answers “yes,” the ERT will then switch to the medical protocol system and provide the appropriate instructions to the caller to care for the patient until help arrives.

As the ERT is gathering the information, the **Public Safety Dispatcher (PSD) is quickly evaluating the available police resources**. The goal for the Communications Center is to dispatch priority one calls within three minutes; however, resources do not always allow for this response time. When a call cannot be dispatched within that time frame, it is documented in the call screen. The call priorities are a guideline for coding and dispatching calls for service. The application of this procedure is contingent upon the details unique to each situation. The assignment of codes is the initial responsibility of the employee who receives and enters the call for service into the system. Priority One represents a life

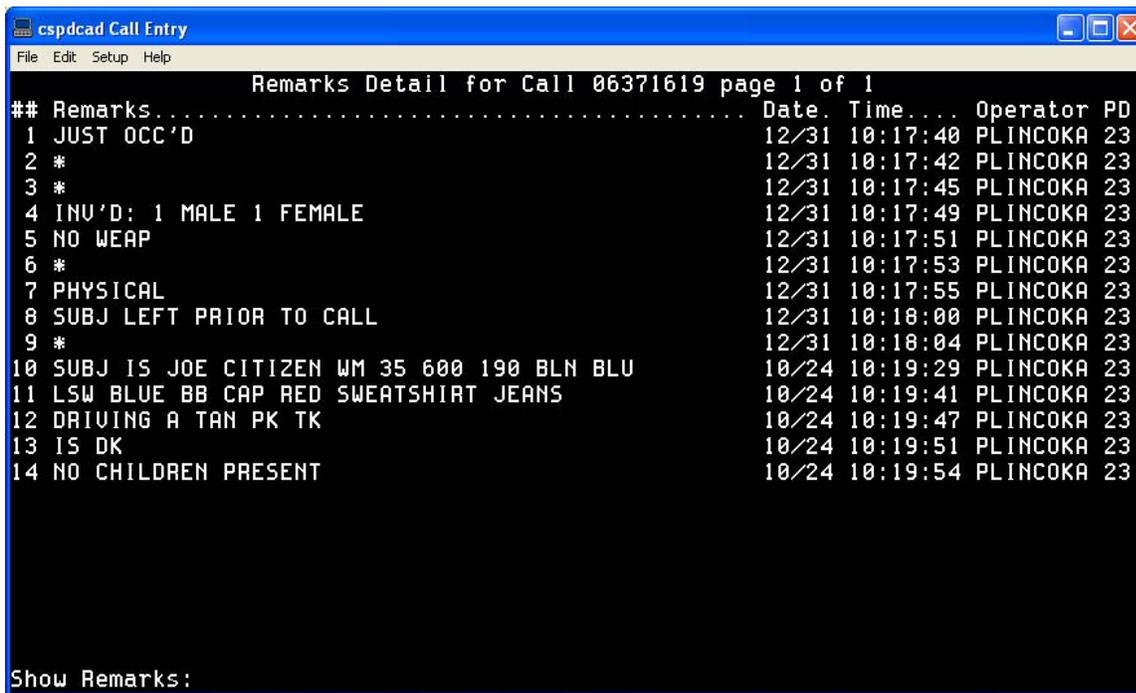
threatening situation that requires an immediate response by police, fire or medical personnel. Calls for service requiring a fire or medical response must be dispatched within two minutes. Calls for service requiring a police response will be dispatched as soon as possible to any available units and cross-zone dispatching can be considered when dispatching priority one calls. Delays in dispatching are documented in the remarks section of the call screen.

6. Once the call has been dispatched, the PSD will **note the status changes of the responding officers on the call screen**, which will include their en-route time and their arrival at the scene.
7. The PSD will process any **additional requests for help**, which might include an officer's request to dispatch medical, if he/she believes the parties at the scene require medical attention.
8. The dispatcher will also **process want/warrant checks** on individuals requested by the officer.
9. **Open calls:** Our center averages approximately 2600 calls each month when the caller hangs up before a call taker has the opportunity to answer. Each of these calls is logged and followed up with a telephone call to the number received. If there is no answer on our first attempt, a second attempt is made.

**Domestic Violence Disturbance Call Screen:**

An example of the call screen information that the responding officer would receive would look similar to the illustration below. This call was created for illustrative purposes only:





**Strengths of the Communications Center:**

- The Communications Center finds its strengths in its ability to train employees and to provide efficient, compassionate service to the citizens it serves. The call takers and dispatchers do a significant amount of work in Communications and they maintain exceptionally high performance standards.
- The employees are highly qualified and dedicated. The Communications Center has minimal sustained complaints when compared to a high volume of calls. Last year, our Center answered 596,600 calls for service and only had 3 sustained employee complaints.
- The Communications Center is an Accredited Center of Excellence by the National Academy of Emergency Dispatch and is accredited through CALEA, which is the Commission for Accreditation of Law Enforcement Agencies. To qualify for this honor, the work of our employees must be reviewed weekly and must meet high established standards for compliance with procedure. In 2005, our employees earned a 98% compliance score.
- The employees in communications are flexible and are able to adapt to constantly changing dynamics in the work environment.

**Challenges for the Communications Center:**

- Working in a remote environment, the staff cannot see and report everything that is happening at the scene. Staff is limited to what the calling party gives the ERT and/or things heard in the background.
- The Communications Center does not have access to all of the available data sources from agencies, such as Probation or the Criminal Justice Center, or information that is outside of the CCIC/NCIC (Colorado Crime Information Computer/National Crime Information Computer) network.

- The Communications Center faces resource limitations in staffing enough Emergency Response Technicians and Public Safety Dispatchers appropriate to the population it serves.

## **COLORADO SPRINGS POLICE DEPARTMENT**

Prepared by Sgt. Howard Black, Colorado Springs Police Department

### **Mission Statement:**

*Safeguarding our community as our family.* Our mission is to promote the quality of life in Colorado Springs by providing police services with integrity and a spirit of excellence, in partnership with our Community.

### **Structure:**

The Colorado Springs Police Department (CSPD) is organized into two Bureaus and two Divisions that report directly to the Chief of Police. The Operations Support Bureau provides a wide range of services and is comprised of many different divisions and sections. Some of these services include investigating major crimes, sex crimes, juvenile crimes, and property crimes. Other Sections within the Operations Support Bureau include: Communications Center, Records & ID, Metro Crime Lab, Code Enforcement, Canine, TEU, Air Support, and Parking Enforcement.

The Patrol Bureau provides a wide range of services including responding to calls for service from the public, traffic control, education and enforcement, neighborhood watch, crime prevention; business watch, etc. The majority of the Officers one sees every day are assigned to the Patrol Bureau. These Officers patrol the community and respond when one calls for assistance. The Bureau is comprised of four Area Commands, including Gold Hill, Stetson Hills, Sand Creek, and Falcon.

### **Domestic Violence Arrest Procedures:**

#### **Policy –**

Domestic disturbance calls for service are serious matters requiring appropriate handling by police officers, particularly when there is probable cause that crimes against persons have been committed. Failure to take the appropriate action often leads to later personal crimes involving the same parties and to repeated calls for police service. State statute requires that peace officers arrest any suspect when probable cause exists that an offense involving domestic violence has been committed.

In domestic disturbance calls, when probable cause is present for crimes relating to domestic violence (DV), officers shall arrest the suspect. The overriding concern is taking appropriate action that assures the protection and safety of the victim and other potential victims. When probable cause is present, the officer will arrest the suspect regardless of the expressed wishes of the victim, and whether or not the victim agrees

to sign a complaint. All persons arrested for offenses related to DV, both felony and misdemeanor, will be booked into secure detention and required to post bond on the charges.

### **Arrest of Domestic Violence Assailants –**

If the officer finds probable cause that a crime has been committed, within the definition of Domestic Violence, and suspect and victim are or have been involved in an intimate relationship, the officer shall arrest the suspect without undue delay. All persons arrested on offenses relating to DV, including felonies and misdemeanors, will be booked into a secure detention facility, such as the Criminal Justice Center (CJC) or Spring Creek Juvenile Detention Facility, as appropriate, and required to post bond after he/she has been advised of the Mandatory Protection Order that is required of all criminal cases.

When visible injuries are present, officers are required to document them with photographs, whenever possible. Any other evidence shall be collected to the degree it is reasonably possible and preserved in accordance with existing policy. All DV initial investigations and arrests will be documented on the Domestic Violence Complaints.

Officers should remain cognizant of the fact that cases involving allegations of Domestic Violence may receive increased scrutiny from supervisors, prosecutors, judges, and community groups. For this reason, officers should make reasonable efforts to conduct as thorough an investigation as is practicable, under the circumstances, even in cases involving relatively minor criminal allegations. Officers should attempt to personally interview victims and suspects, as well as identify and interview witnesses, whenever practical. When visible injuries are present, officers shall photograph them whenever possible, and should carefully describe them in the narrative portion of their report or the DV Complaint. A statement from the attending physician should be included in the officer's report, if the victim receives medical treatment incidental to the initial investigation. When applicable, a Serious Bodily Injury Form should be signed by the Attending Physician. Officers should review the victim's written statement, if any, for thoroughness and elements of the crime alleged, and should document their own observations, including those facts that serve to corroborate or refute statements of the involved parties on the PC Affidavit portion of the DV Complaint.

Arrests for events that did not occur with an officer's presence must be based on probable cause, regardless of the insistence or reluctance of a party to sign a complaint. It is the responsibility of investigating officers and supervisors to determine if probable cause exists for an arrest; when it does, the facts supporting it must be clearly documented by the officer, the victim, or both. When probable cause cannot be established, officers shall not take a signed complaint, make an arrest, or file criminal charges, even if a complainant demands to sign a complaint. When officers are uncertain whether or not probable cause exists, supervisory guidance should be obtained. Colorado statute stipulates that an officer is not required to arrest both parties merely

because both claim to be victims, nor does it require an officer to arrest either party when the officer believes that no probable cause exists.

On occasion, officers will receive complaints of domestic violence from two or more persons. The officer shall evaluate each complaint, separately, to determine if a crime has been committed by one or more persons. According to Colorado revised Statute 18-6-803.6, the officer shall consider the following:

- Any prior complaints of domestic violence
- The relative severity of the injuries inflicted on each person
- The likelihood of future injury to each person
- The possibility that one of the persons acted in self defense

The acceptance of counter-complaints, in which both parties to the incident are charged, may be counter-productive and difficult to successfully prosecute. Officers faced with such a situation should make every reasonable effort to fully investigate the circumstances and should attempt to establish or rule out possible legal justifications for a participant's actions, including those of self defense and defense of another.

Evidence that indicates one party to the incident was the initial aggressor, that one party used force in their own defense or in an effort to escape, and similar facts should be evaluated before a decision is reached to charge both parties. This does not preclude the arrest of both parties if probable cause exists that both committed a Domestic Violence offense.

In cases where probable cause for an arrest cannot be established, officers may consider other methods of remediation when appropriate. Options that might be employed could include suggestions for the couple arranging for separate short term accommodations, providing reference to counseling or support groups, etc. In extreme cases, officers may consider seeking an Emergency Protection Order from the on-call judge. In domestic cases where no probable cause exists for an arrest, hence, no DV Complaint is completed, the officer shall refer the victim to available DV resources such as TESSA and provide them with a Domestic Violence Referral Card when possible.

#### **Strengths of the Colorado Springs Police Department's Handling of DV Cases:**

- CSPD was instrumental in the development of DVERT and continues to provide resources and officers, allowing for a coordinated community response to a limited number of highly lethal domestic violence cases.
- The Colorado Springs Police Department has recognized that domestic violence is an important issue and is dedicated to developing innovative strategies to address it.

#### **Challenges for the Colorado Springs Police Department Handling of DV Cases:**

- High volume of calls for service with limited resources, including severe staff shortages.

- Increase in population and geographical area has led to an increase in response times. It is projected in 2007 that the response time will be an average of 12.2 minutes compared to the current average of 11 minutes. The goal for response times is eight minutes.
- Limited time to obtain in-depth information about the context of the violence.
- Lack of resources to further investigate cases and provide victim follow-up.
- Limited cross training with other agencies and limited initial and ongoing DV training.
- The absence of community-based domestic violence victim advocates in each CSPD division.

**EL PASO COUNTY SHERIFF'S OFFICE**  
Prepared by Lt. Cliff Northam and Sgt. Mark Getskow

**Mission Statement:**

The mission of the El Paso County Sheriff's Office is to fulfill the duties and responsibilities of the Office as set forth by statute and to set the standards for law enforcement professionals dedicated to community oriented policing.

The mission of the El Paso County Sheriff's Office Detention Bureau is to protect the citizens of El Paso County through the effective operation and maintenance of the detention facility protecting the rights of inmates and providing a safe and secure environment for them, as well as for staff and visitors.

**Structure:**

**A. SHERIFF'S OFFICE ORGANIZATION:**

The Sheriff's Office consists of personnel designated in two (2) classifications: Sworn and Civilian.

**Sworn Personnel:** Sworn personnel possess a Deputy Sheriff commission and are designated by one of the following ranks: Sheriff, Undersheriff, Bureau Chief, Commander, Lieutenant, Sergeant, Deputy I, Deputy II, and Deputy III.

**Civilian Personnel:** Civilian Personnel provide support services to DV-related cases, including the El Paso County Sheriff's Office Communications Center, PR Bond Commissioners, Victim Advocates, medical personnel and court personnel.

**B. ORGANIZATIONAL STRUCTURE:**

The Sheriff's Office is organized into three (3) Bureaus consisting of eight (8) subordinate divisions.

1. **Detention Bureau:** Detention Security Division, Detention Operations Division, and Detention Support Division
2. **Law Enforcement Bureau:** Patrol Division, Investigations Division, and Emergency Services Division
3. **Support Services Bureau:** Administrative Services Division and Professional Standards Division

### **Process for Working with Domestic Violence Offenders:**

The misdemeanor domestic violence arrest and booking process for a suspect flows through several layers of Standard Operating Procedures, Policy, and units of the El Paso County Sheriff's Office:

1. Deputies establish Probable Cause that a suspect committed an offense under the Domestic Violence statutes.
2. The suspect is arrested and transported to the pre-booking area of the Criminal Justice Center.
3. Deputies gather identifying information on the suspect.
4. Deputies complete and notarize a Probable Cause Affidavit.
5. When the suspect is accepted into the facility, s/he enters the intake and release area and awaits the formal booking process, which includes taking fingerprints, receiving medical clearance and changing into a jail uniform.
6. The suspect is then advised of the charges against him/her and the procedures necessary before s/he can be released from the facility.
7. The suspect is transferred to the Detentions Housing Unit where s/he is assigned a bed and must await the next step in the process.
8. Suspects that are arrested Friday or Saturday must attend a video advisement in the jail. Suspects that are arrested Sunday through Thursday are scheduled for next day arraignments during Fast Track. During arraignment or video advisement, suspects are advised of the Mandatory Protection Order, which is a condition of his/her bail and could also include a No Contact Order protecting the victim for three business days. The purpose of the three day No Contact Order is to allow the victim time to secure a Civil Temporary Protection Order and Permanent Protection Order if he/she desires. This order is tied to the bail process, which means violating the order could result in a revocation of the bail and re-arrest. The suspect is told whether s/he must post a bond or can be released solely on his/her promise to appear on the designated court date, which is commonly called "Personal Recognizance." Regardless of whether the suspect posts a bond or is released on Personal Recognizance, the suspect is brought back to the Intake and Release area.
9. The release documentation is completed and attempts are made to notify the victim through the activation of the Victim-Offender Information Computer Enhancement (VOICE) system of the imminent release of the defendant.
10. Once three attempts have been made to notify the victim via VOICE, the suspect is released and reminded that there should be no contact with the victim for three business days.

These ten steps are a brief synopsis of an extremely time and people-intensive series of events. Most suspects that are arrested for DV charges spend an entire day going through the processes necessary for them to procure their release. In contrast, a person arrested for a non-domestic violence misdemeanor or felony arrest can be booked and bonded in as little as two hours.

### **Victim Notification:**

The El Paso County Sheriff's Office is also responsible for notification (by phone or in person) to victims of Domestic Violence to advise them when the arrested suspect is being released from jail. This is intended to give the victim time to relocate or make necessary arrangements for themselves and family.

A call for service is created at the request of the Detentions Personnel if they are unable to make contact with the victim by phone. However, the inability to reach the victim for notification in a timely manner is an ongoing challenge if the Victim Notification process is to be effective.

### **Strengths of the El Paso County Sheriff's Office's Handling of DV Cases:**

- In coordination with the other systems involved in the criminal justice response, the Sheriff's Office developed procedures that are designed to expedite the application of the law.
- Implemented the Victim-Offender Information Computer Enhancement (VOICE) victim notification system, which helps to ensure that victims are notified of an offender's release.
- Developed a system to record phone conversations between inmates and victims.
- One detective is actively assigned to the Domestic Violence Enhanced Response Team.
- The Sheriff's Office is involved in the annual "round up," a warrant sweep to locate and arrest wanted domestic violence offenders.

### **Challenges for the El Paso County Sheriff's Office Handling of DV Cases:**

- Domestic violence laws change frequently, so the systems' response needs to remain flexible. The flexibility causes internal frustration since there is not always a clear understanding as to why changes occur.
- Domestic violence calls for service are difficult due to the emotional intensity and the dynamics between the involved parties, even when there is clear evidence of a violation of law. When the law violations are not so clear, handling these types of calls for service can create even greater challenges.
- It is difficult for deputies to leave a home where they believe something illegal may have occurred or where a pattern of violence exists, but clear probable cause cannot be established.
- Considering and/or assessing the impact of the domestic violence on children is an additional challenge on the deputies.
- Due to the volume of cases, it is difficult for deputies to be able to conduct follow up interviews with victims in cases involving domestic violence.
- "Success" in these cases is difficult to measure. Each deputy must determine if the call (s)he cleared was handled to the best of his/her ability, if the parties involved were treated fairly and appropriately in accordance with the laws and office policy and procedures, and if they were protected, as much as possible, from harm.
- Limited initial and ongoing DV-related training for deputies.

- Limited cross training with other agencies impacted by DV.
- Inmates are able to make three-way calls to the victim despite our best efforts to prohibit them.
- Occasionally, the inmate needs to be in protective custody because other inmates want to hurt him/her for what he/she did to a victim; another inmate may be a friend of the victim.

**OFFICE OF THE DISTRICT ATTORNEY**

Prepared by Chief Deputy District Attorney Doug Miles

**Mission Statement:**

To achieve a just, equitable and expeditious resolution in every county court Defendant's case, considering the needs of the victim, the best interests of the community, and the appropriate consequence (punitive, rehabilitative or both) to hold the Defendant accountable.

**County Court Organizational Structure:**

*Attorneys*

- Chief Deputy District Attorney (DA)
- 2 Senior Deputy DA's
- 9 line deputies for 9 divisions (including Teller County)
- 1 Fast Track deputy to deal exclusively with DV cases

*Staff*

- 2 county court paralegals
- 9 division secretaries for 9 divisions (including Teller County)
- 1 Fast Track secretary
- Several victim advocates (including 1 specifically assigned to Fast Track)
- Investigator
- Restitution clerk

**Misdemeanor Domestic Violence Case Flow:**

1. A Domestic Violence (DV) crime is committed.
2. A DV investigative report and a Probable Cause (PC) affidavit are brought from the jail, where the defendant was booked into custody, to the courthouse by the next morning.
3. The assigned county court paralegal arrives at the courthouse every morning and opens the DA file with the investigative report and PC affidavit.
4. A copy of the investigative report and the PC affidavit are provided to the victim advocates.
5. The assigned county court paralegal completes a criminal history on the defendant and the victim, including all past cases, any cases where the defendant is still on probation or a deferred sentence, and any cases currently set for trial.

6. Every morning the Fast Track deputy reviews the investigative report, the PC affidavit, the criminal histories, and any victim input information. Additionally, the deputy annotates pertinent information on each file and writes a proposed offer for each defendant.
7. Victim advocates work diligently to contact the victims to ascertain their feelings on bond, protection order conditions, level of fear, etc. and to provide victim support information (i.e., advocacy services, victim's compensation, etc.)
8. Fast Track begins at 1:30 PM each day.
9. Defendants are brought into the courtroom, advised of their rights, advised of the mandatory protection order terms, and bond is set.
10. The Fast Track deputy and line deputies speak with victims who show up to court.
11. Deputy DA's speak with the defendants and make plea offers. Defendants can take the offer or set the case for trial.
12. The victim is then advised of what the defendant chooses to do.
13. If the defendant accepts the offer, the Fast Track Magistrate will take the guilty plea on the record and impose sentence immediately.
14. If the defendant rejects the plea agreement, they will be given pre-trial readiness and trial dates in the appropriate county court division.
15. When the defendant accepts the plea offer, the DA's Office case is closed and no further court dates are set unless the defendant fails to comply with the terms of probation or deferred sentence. In the event of a guilty plea to a Deferred Sentence, the defendant's compliance is monitored by the Domestic Violence Case Monitor (DVCM). If the defendant does fail to comply, a Motion to Revoke Deferred Sentence/Probation is filed and the defendant is required to appear in court and respond to the Motion.
16. When the defendant sets the case for trial, the Fast Track secretary and the division secretaries prepare the file; they order 911 tapes, pictures, supplemental reports, etc. The division paralegal also prepares motions to introduce other crimes, wrongs, or acts of the defendant (i.e., prior DV cases).
17. Motion dates may be set or motions may be heard on the day of trial. At pre-trial readiness, if both sides announce they are ready, the case will proceed to trial. Either side may request a continuance at the pre-trial readiness date. That decision is up to the division judge. The defendant may still accept a plea agreement on the pre-trial readiness date and on some trial dates.
18. On the trial date, the case will proceed to trial if the State can proceed with the proper evidence. If not, the case will be dismissed unless the judge grants a continuance.

**Strengths of the Fast Track Process:**

- Immediate consequence for defendant's behavior (jail and court).
- Immediate DA contact (75%) with victims before the defendant can attempt to manipulate the victim.
- Opportunity to immediately resolve the case and get the defendant into treatment.
- The process is the most efficient way of dealing with the volume.
- A deputy DA reviews each and every case and victims have contact with victim advocates.

### **Challenges with the Fast Track Process:**

- Volume of cases.
- Limited time to obtain in-depth information about the context of the violence.
- Victims often minimize the consequences to the defendant by requesting lower bonds and/or contact with the defendant.<sup>9</sup>
- Lack of resources to further investigate cases prior to trial.
- Turnover of involved deputy district attorneys in county court.
- Inadequate and/or incomplete offense reports from law enforcement.
- Inadequate judicially-imposed consequences for defendant non-compliance.

## **FOURTH JUDICIAL DISTRICT PROBATION OFFICE**

Prepared by Ellen Walker and Bridget Collins, Fourth Judicial District Probation DV Unit

### **Mission Statement:**

The Fourth Judicial District Probation Department is a community based correctional agency that operates within the Colorado Judicial Branch of government. The mission of the Probation Department is to provide pre-sentence information to the courts, supervise offenders in the community, provide support and assistance to crime victims, and promote the development of community programs that are responsive to specific victim, community and offender needs. The department performs this mission in accordance with Colorado Statutes and “Standards for Probation in Colorado.”

### **Probation Department’s Statement of Philosophy:**

The Fourth Judicial District Probation Department contributes to safe communities through a process of restorative justice, which is incorporated into all department functions. This philosophy affects how it interacts with the community, victims, and offenders, and is promoted by:

- Engaging in collaborative efforts to support and restore victims of crime,
- Holding offenders accountable to repair the harm they have caused, and
- Helping to create opportunities for offenders to assume productive roles in our community.

### **Structure and Procedures:**

The Chief Judge of the Fourth Judicial District Court oversees the Probation Department, which is managed by the Chief Probation Officer. The Probation Department itself is comprised of eight working units, led by supervisors with the responsibility of anywhere from eight to 15 line staff each.

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<sup>9</sup> There are many reasons why victims minimize the violence they have experienced, including fear of retaliation, cultural consideration, economic dependence on the batterer, and concern that the Department of Human Services will remove children from a household that has experienced domestic violence. Additionally, victims often believe that they are to blame for the abuse and/or that the State should not intervene in “family matters.”

In an effort to affect positive changes in behavior, and in accordance with Colorado Statute (18-6-803 C.R.S.), all Domestic Violence offenders are required to participate in treatment. Concomitantly, in the interest of public safety, the Fourth Judicial District Probation Department operates a Domestic Violence unit. The services provided include, but are not limited to: making treatment referrals, monitoring progress, reporting to the sentencing Court, and maintaining a relationship with the local Domestic Violence treatment community.

As of this writing, the Domestic Violence Unit is made up of a supervisor and seven full time Domestic Violence Probation Officers (DV PO), with average caseloads of approximately 140 offenders each. Officers are present each day at Fast Track to read, explain, and sign the terms and conditions of probation with offenders who enter guilty pleas and are sentenced to supervised probation. The offenders are then directed to report to the Probation Department within 48 hours of their release from custody. When the defendant reports to Probation to complete the Intake process, or when the appropriate trigger is received from the sentencing Court, depending upon which occurs first, a file is created, the data is entered, and a criminal record check is completed. The file is forwarded to the Domestic Violence supervisor for assignment.

Misdemeanor domestic violence cases are assigned to either the Probation Department or private probation based upon risk level and ability to pay for services. Initial risk level is determined by the administration of the Domestic Violence Screening Inventory (DVSI). Frequently, the Spousal Assault Risk Assessment (SARA) is administered as well. If the offender is supervised by the Probation Department, he/she is usually assigned to a supervising officer by Court division. One exception is in the event that the offender has been accepted by DVERT (the Domestic Violence Enhanced Response Team), in which case, the offender is assigned to the designated DVERT Probation Officer for heightened supervision/containment.

During the intake process, the offender is provided with the Intake Case Assignment Form, which includes further reporting instructions. If the offender does not report as instructed, the DV PO is responsible for making reasonable attempts to locate the offender. If the offender never reports to complete the Intake process and/or cannot be located afterwards, the DV PO files a complaint & report of noncompliance with the sentencing Court and requests a warrant for the offender's arrest. In the event the offender calls the supervising officer as instructed, the DV PO sets an initial appointment with the offender. At the initial appointment, the DV PO reads or reviews the terms and conditions of Probation, makes appropriate treatment referrals and reviews the level of supervision.

The DV PO monitors the offender's compliance, or lack thereof, is in contact with treatment providers regularly, and is available to the victim(s) throughout the probation term. If the offender violates Court orders or probation conditions, the DV PO is responsible for imposing intermediate sanctions or filing a petition for revocation, with either a request for a warrant or a summons, as appropriate. Furthermore, the DV PO is responsible for attending the offender's revocation hearing to testify to the facts and make recommendations

for sentencing. If the offender successfully completes the conditions of probation, and is nearing the end of the term, the DV PO files a request for termination. In agreement with the District Attorney's Office, early terminations from probation are only requested by the DV PO if the offender has no prior assaultive convictions, and only after input from the District Attorney in the sentencing Court and the victim.

#### **Strengths of the Probation Department:**

- The DV PO has the luxury of dealing specifically with domestic violence offenders, is afforded the opportunity to attend specialized training in preparation of such a caseload, and can focus on providing the appropriate type and level of supervision to true offenders.
- The DV PO is well trained and experienced in dealing with the particular idiosyncrasies of the domestic violence offender, especially the power and control tactics they employ in various forms.
- The formation of a team concept at Probation, where the seven officers work very closely together to contain offenders, even in the event of the absence of the supervising officer.
- The DV PO is tasked with working as an important member of the treatment team, which is further composed of the treatment provider(s) and the victim(s).
- El Paso and Teller Counties have over 30 state approved Domestic Violence treatment providers for Court ordered clients, and most times offenders can get enrolled in treatment without much delay, i.e., sometimes as quick as a few days.
- Increased communication with treatment providers, and with law enforcement, has been facilitated by committee work and community organization.
- Increased communication with the bench has been another function of committee work, but also of Domestic Violence specific training, and of increased contact with the presiding judge in each division by assigning a DV PO to each division.

#### **Challenges for the Probation Department:**

- High caseloads make it difficult for the DV PO to respond to problem situations in a timely fashion, and often lead the PO to feel as if they only have time to deal with emergencies, i.e., simply "putting out fires." More staff and lower caseloads would allow for increased surveillance and quicker responses to situations which would prevent small problems from turning into emergencies. Lower caseloads would also allow the DV PO to do more field work, with the defendant in his/her own environment, at work and at home for example, and to be more actively involved in treatment by attending staffings in person instead of being confined to the office, only to appear via the telephone or email. Ultimately, this would enhance offender accountability and result in safer families.
- Burnout presents a unique challenge to work with Domestic Violence offenders. The work of a DV PO can be mentally and emotionally exhausting. For some, it is a formidable task. Many probation officers would much rather work in any other unit than in Domestic Violence to avoid the psychological mind games true offenders tend to play with professionals in the field. Probation Officers in the field who are

unaware of their own burnout run the risk of colluding with the offender, and creating a more dangerous offender.

- Inconsistencies found amongst the various Domestic Violence treatment providers is yet another challenge. Though all are held to the Colorado Standards for Treatment with Court Ordered Domestic Violence Offenders, differences exist in the type and caliber of treatment received. While each provider has its own strengths, consistency in treatment, curriculum, skills taught/learned, behavioral expectations, etc., is sometimes lost.

## **TESSA**

Prepared by Michelle Valdez, TESSA Executive Director

### **Mission Statement:**

To help women and their children achieve safety and well-being while challenging communities to end sexual and family violence.

### **Vision Statement:**

A community committed to peace, equality, and social justice.

### **Agency Overview:**

TESSA, formerly the Center for Prevention of Domestic Violence, was founded in 1977 and is the community's primary agency dedicated specifically and solely to the issue of domestic violence and sexual assault. An annual operating budget of \$1.9 MM, TESSA has approximately 55 staff (full- and part-time) and over 100 volunteers. The agency serves approximately 3,000 people in person each year and over 12,500 by phone. In 2006, TESSA provided 7,500 nights of shelter to 223 women and 180 children, provided confidential advocacy to over 1,800 domestic violence and/or sexual assault victims, and counseled over 550 non-residential adults and children.

TESSA offers a wide variety of prevention, intervention, advocacy, and clinical services:

- **24-Hour Crisis Line:** intervention, information, and community referrals.
- **Children's Program:** therapeutic and non-therapeutic services and supports to children who have witnessed and/or been victims of domestic violence.
- **Counseling Program:** individual psychotherapy and psycho-educational and support groups.
- **DVERT:** community-wide, multidisciplinary response to high-risk domestic violence cases.
- **Community Outreach:** provides training and education to schools, businesses, community associations, and faith-based organizations.
- **Safehouse:** emergency shelter, food, advocacy and case management, counseling, and support to female victims and their children.
- **Volunteer Program:** can assist with the Crisis Line, Safehouse, Children's Programs, Victim Advocacy, Community Outreach, administration, fundraising, and special projects.

- **Victim Advocacy:** Provides advocacy, information, support and referrals. Advocacy includes the development of safety plans, assistance with temporary protection orders, sharing information and referrals, on-call hospital response, and basic support and education.
  - **Main Office Advocacy:** Provides advocacy, information, support and referrals at TESSA’s main office.
  - **Court Advocacy:** Provides advocacy, information, support and referrals at the El Paso County Judicial Complex.
  - **Hospital Advocacy:** Provides on-call advocacy support to sexual assault and domestic violence victims 24 hours per day, 7 days a week.
  - **Rural Victim Advocacy:** Provides victim advocacy, individual counseling and community outreach to rural communities, including eastern El Paso and Teller Counties.
  - **Department of Human Services Victim Advocacy:** Provides victim advocacy to TANF clients at the Department of Human Services for clients who are or have experienced domestic violence in their relationship.

**Main Office Victim Advocacy**<sup>10</sup>: For purposes of this document, the Main Office Victim Advocacy Program is explained in more detail. Other agency programs/services were not included in the Audit Process. Main Office Advocacy includes:

- Director of Advocacy
- (1) Advocacy Manager
- (6) Full-time Advocates

**Main Office Victim Advocacy Case Flow:**

1. Clients who come to Main Office Advocacy are considered “walk-in” clients (i.e., do not need an appointment to see an advocate). When a client comes to the office for services, the following process generally occurs:
  - a. The front desk staff assesses the clients’ needs (e.g., does client need to see an advocate, is she filing a Temporary Protection Order, does she want to see a therapist, is she in need of safehousing and/or need to address a crisis situation, etc.).
  - b. The client will be asked to fill out an intake (this may be done by the client while she waits to see an advocate or it may be done jointly by the advocate with the client).
  - c. An advocate and the client will have a private space to discuss his/her concerns.
  - d. The advocate will explain confidentiality and TESSA’s duty as mandated reporters before any other discussion occurs.

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<sup>10</sup> The description of TESSA’s Main Office Victim Advocacy was in the process of changing at the time of publication of this report. Please contact TESSA for more information: (719) 633.1462.

- e. The advocate will then ask the client what brought her in to the office and ask how the agency can assist her.
- f. The advocates will always listen and support the client, discuss safety with the client and help the client create a safety plan, if appropriate, that meets her individual needs. The advocate may also do some or all of the following:
  - Assist the client with Protection Order paperwork
  - Discuss community resources and make referrals
  - Apply for financial assistance on behalf of the client
  - Help the client understand the legal system and what the process generally looks like if they choose to report to law enforcement or if they are going through the court system
  - Help them get into safehousing, if needed
  - Advocate on behalf of the client with other organizations, individuals or systems
2. Advocates will do follow up work/contacts with the clients at their request, for as long as the client wishes and/or there are issues/concerns that the agency can provide services/advocacy.
3. Advocates will also do court support for clients in the following capacity:
  - a. TESSA advocates are present in the court rooms every day for Temporary and Permanent Protection Order hearings as well as Fast Track. This level of advocacy consists of advocates identifying themselves as “TESSA Confidential Advocates” and making contact with any clients/victims who are present in the court room, giving general information about TESSA, answering any questions about the legal/court process (however, not giving any legal advice).
  - b. TESSA advocates can also provide individual advocacy support to clients through any court process (trials, hearings, custody, etc.) at the request of the client, and if resources allow.

**Strengths of TESSA’s Main Office Advocacy:**

- TESSA is the only agency in this community that provides confidential victim advocacy to victims of domestic violence and/or sexual assault.
- Clients do not have to make an appointment to see someone. He/she can come in as needed and see any advocate who is available, thus allowing a fairly high number of clients to access the agency’s services each day.
- Advocates are knowledgeable regarding community resources and have built relationships with other community partners/agencies which can benefit the client when the advocate is working on his/her behalf.
- Advocates can provide individual support for battered women as they navigate through the criminal or civil justice systems.

**Challenges for TESSA's Main Office Advocacy:**

- A high volume of clients in main office advocacy and very few resources. TESSA is unable to provide in-depth, long-term case management for clients.
- TESSA frequently has clients who need legal assistance; however, advocates have very few resources to access and/or refer clients to for legal assistance.
- Turnover in advocacy is high and training new advocates can be time consuming and difficult.
- Advocates have very little power “in the system” and find it extremely difficult to advocate for clients who are being re-victimized by large, bureaucratic government agencies/structures.
- Lack of understanding on behalf of the agencies in our community as to our capacity, what we can/cannot provide, and advocate privileged communication.

**APPENDIX H:  
DOMESTIC VIOLENCE: COMMON DEFINITIONS AND TERMS**

**Battering** may be defined as an ongoing patterned use of intimidation, coercion, and violence as well as other tactics of control to establish and maintain a relationship of dominance over an intimate partner. (Pence & Dasgupta, 2006)

**Crawford/Hammon/Davis:** The Crawford/Hammon/Davis line of cases decided by the U.S. Supreme Court have redefined the parameters of evidence-based (the victim chooses not to participate) prosecution of domestic violence cases. The Supreme Court cases have significantly changed the analysis of the Confrontation Clause of the United States Constitution and the rights of an accused person to confront and cross examine witnesses. While the Crawford/Hammon/Davis trilogy of cases present new challenges in evidence-based prosecution, criminal justice agencies can adapt to the new rules and continue to successfully prosecute domestic violence cases without the participation of the victim. Law enforcement agencies must create new investigative methods in order to obtain admissible evidence. Prosecutors must restructure trial strategies to accommodate new evidentiary rules and utilize tools rarely employed in the past such as forfeiture by wrongdoing. Training for all professionals in the domestic violence field is essential to the continued success of evidence-based prosecution of domestic violence offenders in order to enhance victim safety and hold offenders accountable.

**Domestic Violence** means an act or threatened act of violence upon a person with whom the actor is or has been involved in an **intimate relationship**. “Domestic violence” also includes any other crime against a person or against property or any municipal ordinance violation against a person or against property, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an **intimate relationship**. §18-6-800.3

**Domestic Violence Offender:** 16-11.8-102 C.R.S. Definitions (2) “Domestic violence offender” means any person who on or after January 1, 2001, has been convicted of, pled guilty to, or received a deferred judgment or deferred prosecution for any domestic violence offense as defined in [18-6-800.3(1) C.R.S.].19-6-800.3(1)]

**Dominant Aggressor:** Colorado law does not use or define the term “dominant aggressor”. However, law enforcement officers are directed by statute to analyze potential domestic violence incidents in a manner similar to dominant aggressor analysis. 18-6-803.6 C.R.S. Duties of peace officers and prosecuting (2) If a peace officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine if a crime has been committed by one or more persons. In determining whether a crime has been committed by one or more persons, the officer shall consider the following:

- (a) Any prior complaints of domestic violence;
- (b) The relative severity of the injuries inflicted on each person;
- (c) The likelihood of future injury to each person; and
- (d) The possibility that one of the persons acted in self-defense.

**Dual Arrest:** If a peace officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine if a crime has been committed by one or more persons. In determining whether a crime has been committed by one or more persons, the officer shall consider the following:

- (a) Any prior complaints of domestic violence;
- (b) The relative severity of the injuries inflicted on each person;
- (c) The likelihood of future injury to each person; and
- (d) The possibility that one of the persons acted in self-defense.

**Harassment and Stalking:** 18-9-111 C.R.S. Harassment—stalking (1) A person commits harassment if, with intent to harass, annoy, or alarm another person, he or she: (a) Strikes, shoves, kicks, or otherwise touches a person or subjects him to physical contact; or (b) In a public place directs obscene language or makes an obscene gesture to or at another person; or (c) Follows a person in or about a public place; or (d) Repealed by

Laws 1990, H.B.90-1118, § 11. (e) Initiates communication with a person, anonymously or otherwise by telephone, computer, computer network, or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, computer, computer network, or computer system that is obscene; or (f) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation; or (g) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or (h) Repeatedly insults, taunts, challenges, or makes communications in offensively coarse language to, another in a manner likely to provoke a violent or disorderly response. (1.5) As used in this section, unless the context otherwise requires, "obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions. (2) Harassment pursuant to subsection (1) of this section is a class 3 misdemeanor; except that harassment is a class 1 misdemeanor if the offender commits harassment pursuant to subsection (1) of this section with the intent to intimidate or harass another person because of that person's actual or perceived race, color, religion, ancestry, or national origin. (3) Any act prohibited by paragraph (e) of subsection (1) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail, or other electronic communication was either made or received. (4)(a) The general assembly hereby finds and declares that stalking is a serious problem in this state and nationwide. Although stalking often involves persons who have had an intimate relationship with one another, it can also involve persons who have little or no past relationship. A stalker will often maintain strong, unshakable, and irrational emotional feelings for his or her victim, and may likewise believe that the victim either returns these feelings of affection or will do so if the stalker is persistent enough. Further, the stalker often maintains this belief, despite a trivial or nonexistent basis for it and despite rejection, lack of reciprocation, efforts to restrict or avoid the stalker, and other facts that conflict with this belief. A stalker may also develop jealousy and animosity for persons who are in relationships with the victim, including family members, employers and co-workers, and friends, perceiving them as obstacles or as threats to the stalker's own "relationship" with the victim. Because stalking involves highly inappropriate intensity, persistence, and possessiveness, it entails great unpredictability and creates great stress and fear for the victim. Stalking involves severe intrusions on the victim's personal privacy and autonomy, with an immediate and long-lasting impact on quality of life as well as risks to security and safety of the victim and persons close to the victim, even in the absence of express threats of physical harm. The general assembly hereby recognizes the seriousness posed by stalking and adopts the provisions of this subsection (4) and subsections (5) and (6) of this section with the goal of encouraging and authorizing effective intervention before stalking can escalate into behavior that has even more serious consequences. (b) A person commits stalking if directly, or indirectly through another person, such person knowingly: (I) Makes a credible threat to another person and, in connection with such threat, repeatedly follows, approaches, contacts, or places under surveillance that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship; or (II) Makes a credible threat to another person and, in connection with such threat, repeatedly makes any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensues; or (III) Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. For purposes of this subparagraph (III), a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress. For the purposes of this subsection: Conduct "in connection with" a credible threat means acts which further, advance, promote, or have a continuity of purpose, and may occur before, during, or after the credible threat; (II) "Credible threat" means a threat, physical action, or repeated conduct that would cause a reasonable person to be in fear for the person's safety or the safety of his or her immediate family or of someone with whom the person has or has had a continuing relationship. Such threat need not be directly expressed if the totality of the conduct would cause a reasonable person such fear. "Immediate family" includes the person's spouse and the person's parent, grandparent, sibling, or child; and "Repeated" or "repeatedly" means on more than one occasion. (5) Where a person commits stalking under paragraph (b) of subsection (4) of this section,

the following shall apply: (a) A person commits a class 5 felony for a first offense.

(a.5) For a second or subsequent offense, if such offense occurs within seven years of the date of a prior offense for which such person was convicted, the offender commits a class 4 felony. (a.7) Stalking is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in section 18-1.3-401(10).

(b) If, at the time of the offense, there was a temporary or permanent protection order, injunction, or condition of bond, probation, or parole or any other court order in effect against such person prohibiting the behavior described in paragraph (b) of subsection (4) of this section, such person commits a class 4 felony. In addition, when a violation under subsection (4) of this section is committed in connection with a violation of a court order, including but not limited to any protection order or any order that sets forth the conditions of a bond, any sentence imposed for such violation pursuant to this subsection (5) shall run consecutively and not concurrently with any sentence imposed pursuant to section 18-6-803.5 and with any sentence imposed in a contempt proceeding for violation of the court order. Nothing in this paragraph (b) shall be construed to alter or diminish the inherent authority of the court to enforce its orders through civil or criminal contempt proceedings; however, before a criminal contempt proceeding is heard before the court, notice of the proceedings shall be provided to the district attorney for the district of the court where the proceedings are to be heard and the district attorney for the district of the court where the alleged act of criminal contempt occurred. The district attorney for either district shall be allowed to appear and argue for the imposition of contempt sanctions.

(6) A peace officer shall have a duty to respond as soon as reasonably possible to a report of stalking and to cooperate with the alleged victim in investigating such report.

**Intimate relationship** means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time. §18-6-800.3(1)

**Mandatory Arrest** means when a peace officer determines that there is probable cause to believe that a crime or offense involving domestic violence, as defined in section 18-6-800.3(1), has been committed, the **officer shall, without undue delay, arrest** the person suspected of its commission pursuant to the provisions in subsection (2) of this section, if applicable, and charge the person with the appropriate crime or offense. Nothing in this subsection (1) shall be construed to require a peace officer to arrest both parties involved in an alleged act of domestic violence when both claim to have been victims of such domestic violence. Additionally, nothing in this subsection (1) shall be construed to require a peace officer to arrest either party involved in an alleged act of domestic violence when a peace officer determines there is no probable cause to believe that a crime or offense of domestic violence has been committed. The arrested person shall be removed from the scene of the arrest and shall be taken to the peace officer's station for booking, whereupon the arrested person may be held or released in accordance with the adopted bonding schedules for the jurisdiction in which the arrest is made.

**Privileged Communication and Victim's Advocate:** A victim's advocate shall not be examined as to any communication made to such victim's advocate by a victim of domestic violence, as defined in section §18-6-800.3 (1) or a victim of sexual assault, as described in section §18-3-405.5, § 18-6-301, and §18-6-302, in person or through the media or written records without the consent of the victim. §13-90-107 (1) (k). For purposes of this paragraph (k), a "victim's advocate" means a person at a battered women's shelter or rape crises organization or a comparable community-based advocacy program for victims of domestic violence or sexual assault and does not include an advocate employed by any law enforcement agency.

**Probable Cause:** The policy of the Fourth Judicial District Law Enforcement agencies is to view all domestic violence complaints as instances of alleged criminal conduct. Identification of the primary aggressor, arrest, charging and taking custody of the suspect involved shall be deemed the most appropriate law enforcement response when peace officers determine that probable cause exists in domestic violence situations.

1. The standards for determining probable cause in domestic violence cases are the same as in other criminal actions.
2. Probable cause to arrest exists when:

- a. A peace officer believes a crime is occurring or has occurred and that a certain person committed the crime;
  - b. The peace officer can state sound reasons for this belief;
  - c. The peace officer bases this belief on reasonably trustworthy information and on common sense; and
  - d. The peace officer believes a cautious person would reach the same conclusion given the same facts and circumstances.
3. Peace officers should not consider the potential financial consequences of an arrest, verbal assurances that the violence will cease, or speculation that a victim may not appear in court to testify when determining whether probable cause exists.
  4. When weighing the issues of probable cause, peace officers must keep in mind:
    - a. Injuries may not be readily visible.
    - b. Victims of domestic violence may not show the “expected” emotional response.
    - c. It is not necessary for the victim to sign a complaint if the peace officer has probable cause to believe the offense has occurred.
    - d. If there is doubt in the peace officer’s mind, a supervisor should be consulted.

When probable cause does exist and circumstances warrant, the peace officer should arrest and charge the primary aggressor with the appropriate offense (i.e., assault, disturbance, threats, etc), in addition to outstanding wants or warrants.

**Protection Order** (“Restraining Order”) means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises, that is issued by a court of this state or municipal court, and that is issued pursuant to section CRS 13-6-107, 13-14-4-101, 13-14-102, 14-4-101 to 14-4-105, 14-10-107, 14-10-108, 18-1-1001, 19-2-707, 19-3-316, 19-4-111 or rule 365 of the Colorado rules of county court civil procedure, an order issued as part of the proceedings concerning a criminal municipal ordinance violation, or any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises. CRS 18-6-803 (1.5)(D).

**Protected Party** means the person or persons identified in the restraining order as the person or persons for whose benefit the restraining order was issued CRS 18-6-803.5 (1.5)(a)

**Restrained Person** means the person identified in the order as the person prohibited from doing the specified acts CRS 18-6-803.5 (1.5)(a.5)(II)(c).

**Self Defense** 18-1-704 C.R.S. Use of physical force in defense of a person (1) Except as provided in subsections (2) and (3) of this section, a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.

(2) Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and:

(a) The actor has reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury; or

(b) The other person is using or reasonably appears about to use physical force against an occupant of a dwelling or business establishment while committing or attempting to commit burglary as defined in sections 18-4-202 to 18-4-204; or (c) The other person is committing or reasonably appears about to commit

kidnapping as defined in section 18-3-301 or 18-3-302, robbery as defined in section 18-4-301 or 18-4-302, sexual assault as set forth in section 18-3-402, or in section 18-3-403 as it existed prior to July 1, 2000, or assault as defined in sections 18-3-202 and 18-3-203. (3) Notwithstanding the provisions of subsection (1) of this section, a person is not justified in using physical force if:

(a) With intent to cause bodily injury or death to another person, he provokes the use of unlawful physical

force by that other person; or (b) He is the initial aggressor; except that his use of physical force upon another person under the circumstances is justifiable if he withdraws from the encounter and effectively communicates to the other person his intent to do so, but the latter nevertheless continues or threatens the use of unlawful physical force; or (c) The physical force involved is the product of a combat by agreement not specifically authorized by law. (4) In a case in which the defendant is not entitled to a jury instruction regarding self-defense as an affirmative defense, the court shall allow the defendant to present evidence, when relevant, that he or she was acting in self-defense. If the defendant presents evidence of self-defense, the court shall instruct the jury with a self-defense law instruction. The court shall instruct the jury that it may consider the evidence of self defense in determining whether the defendant acted recklessly, with extreme indifference, or in a criminally negligent manner. However, the self-defense law instruction shall not be an affirmative defense instruction and the prosecuting attorney shall not have the burden of disproving self-defense. This section shall not apply to strict liability crimes.

**Victim:** 24-4.1-302 C.R.S. Definitions (5) "Victim" means any natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime or a crime arising from the same conduct, criminal episode, or plan as crime is defined under the laws of this state or of the United States, or, if such person is deceased or incapacitated, the person's spouse, parent, child, sibling, grandparent, significant other, or other lawful representative. For purposes of notification under this part 3, any person under the age of eighteen years is considered incapacitated, unless that person is legally emancipated.

**APPENDIX I:  
COMMON MISDEMEANOR CHARGES FOR DOMESTIC VIOLENCE IN EL PASO COUNTY**

**Assault in the Third Degree, CRS 18-3-204 (Class 1 Misdemeanor)**

Elements: The Defendant, in El Paso County, Colorado, at or about the date and place charged, knowingly or recklessly caused bodily injury to another.

Penalties: 6 to 24 months in the county jail and/or a fine of \$500.00 to \$5000.00 plus a 37% surcharge on the fine; Court costs as ordered by the court person.

**Harassment, CRS 18-9-111(1)(a) (Class 3 Misdemeanor)**

Elements: The defendant, in El Paso County, Colorado, at or about the date and place charged, with intent to harass, annoy or alarm another person, struck, shoved, kicked, or otherwise touched a person or subjected that person to physical contact.

Penalties: 0 to 6 months in the county jail and/or a fine of \$50.00 to \$750.00 plus a 37% surcharge on the fine; Court costs as ordered by the court.

**Menacing, CRS 18-3-206 (Class 3 Misdemeanor)**

Elements: The Defendant, in El Paso County, Colorado, at or about the date and place charged, by threat or physical action, knowingly placed or attempted to place another person in fear of imminent serious bodily injury.

Penalties: 0 to 6 months in the county jail and/or a fine of \$50.00 to \$750.00 plus a 37% surcharge on the fine; Court costs as ordered by the court.

**Obstruction of Telephone or Telegraph Services, CRS 18-9-306.5 (Class 1 Misdemeanor)**

Elements: The Defendant, in El Paso County, Colorado, at or about the date and place charged, knowingly obstructed or delayed, by any means whatsoever, the sending, transmission, conveyance, or delivery in this state of any message, communication, or report by or through any telegraph or telephone line, wire, cable, or other facility or any electronic, mechanical, or other device.

Penalties: 6 to 24 months in the county jail and/or a fine of \$500.00 to \$5000.00 plus a 37% surcharge on the fine; Court costs as ordered by the court.

**False Imprisonment, CRS 18-3-303 (Class 2 Misdemeanor)**

Elements: The Defendant, in El Paso County, Colorado, at or about the date and place charged, knowingly confined or detained another without the other's consent and without proper legal authority.

Penalties: 3 to 12 months in the county jail and/or a fine of \$250.00 to \$1000.00 plus a 37% surcharge on the fine; Court costs as ordered by the court.

**Violation of a Protection Order, CRS 18-6-803.5 (Class 2 Misdemeanor)**

Elements: The Defendant, in El Paso County, Colorado, at or about the date and place charged, knowingly engaged in conduct which violated a provision of, and was prohibited by, a protection order after the Defendant had been personally served with the order or otherwise acquired actual knowledge of the contents of the order from the court.

Penalties: 3 to 12 months in the county jail and/or a fine of \$250.00 to \$1000.00 plus a 37% surcharge on the fine; Court costs as ordered by the court.

**APPENDIX J:  
JACQUELYN CAMPBELL'S DANGER ASSESSMENT**

Jacquelyn C. Campbell, PhD, RN, FAAN. Copyright 2004 Johns Hopkins University, School of Nursing: [www.dangerassessment.org](http://www.dangerassessment.org)

Several risk factors have been associated with increased risk of homicides (murders) of women and men in violent relationships. We cannot predict what will happen in your case, but we would like you to be aware of the danger of homicide in situations of abuse and for you to see how many of the risk factors apply to your situation. Using the calendar, please mark the approximate dates during the past year when you were abused by your partner or ex-partner. Write on that date how bad the incident was according to the following scale:

1. Slapping, pushing; no injuries and/or lasting pain
2. Punching, kicking; bruises, cuts, and/or continuing pain
3. "Beating up"; severe contusions, burns, broken bones, miscarriage
4. Threat to use weapon; head injury, internal injury, permanent injury, miscarriage
5. Use of weapon; wounds from weapon

(If **any** of the descriptions for the higher number apply, use the higher number.)

Mark **Yes** or **No** for each of the following: ("He" refers to your husband, partner, ex-husband, ex-partner, or whoever is currently physically hurting you.)

**Yes No**

1. Has the physical violence increased in severity or frequency over the past year?
2. Does he own a gun?
3. Have you left him after living together during the past year?  
3a. (If have *never* lived with him, check here \_\_\_)
4. Is he unemployed?
5. Has he ever used a weapon against you or threatened you with a lethal weapon?  
5a. (If yes, was the weapon a gun? \_\_\_)
6. Does he threaten to kill you?
7. Has he avoided being arrested for domestic violence?
8. Do you have a child that is not his?
9. Has he ever forced you to have sex when you did not wish to do so?
10. Does he ever try to choke you?
11. Does he use illegal drugs? By drugs, I mean "uppers" or amphetamines, speed, angel dust, cocaine, "crack", street drugs or mixtures.
12. Is he an alcoholic or problem drinker?
13. Does he control most or all of your daily activities? (For instance: does he tell you who you can be friends with, when you can see your family, how much money you can use, or when you can take the car)?  
13a. (If he tries, but you do not let him, check here: \_\_\_)
14. Is he violently and constantly jealous of you?  
(For instance, does he say "If I can't have you, no one can.")
15. Have you ever been beaten by him while you were pregnant?  
15a. (If you have never been pregnant by him, check here: \_\_\_)
16. Has he ever threatened or tried to commit suicide?
17. Does he threaten to harm your children?
18. Do you believe he is capable of killing you?
19. Does he follow or spy on you, leave threatening notes or messages on answering machine, destroy your property, or call you when you don't want him to?
20. Have you ever threatened or tried to commit suicide?

Total "Yes" Answers: \_\_\_\_\_

**Thank you. Please talk to your nurse, advocate or counselor about what the Danger Assessment means in terms of your situation.**

**APPENDIX K:  
EL PASO COUNTY MISDEMEANOR DOMESTIC VIOLENCE SENTENCING GUIDELINES**

Effective May 1, 2005

1. The deputy district attorney will not include suspended jail in domestic violence plea offers (probation and deferred sentences).
2. Motions to revoke deferred sentences for failure to enroll in DV treatment will continue to be filed, and expedited hearings set in the county court divisions. If the Defendant has enrolled and provides written proof of enrollment at or before the advisement hearing, the motion hearing may be vacated and the deputy district attorney will agree to hold the motion in abeyance.
3. Revocation hearings will be conducted as hearings. After advisement and opportunity to obtain counsel, the Defendant will be asked to either admit or deny the allegations contained in the Motion to Revoke. Statements by the Defendant or defense counsel shall be limited to an admission or denial at this point. If the Defendant admits the violation, the court will enter the conviction. The court will then hear statements in mitigation or aggravation before imposing sentence. If the Defendant denies the allegations, the court will hold a hearing in which the deputy district attorney will be required to present evidence (witnesses, judicial notice of court records, etc.). Any testimony by witnesses (prosecution or defense) shall be under oath and subject to cross examination.
4. If a Defendant's deferred sentence is revoked for failure to comply, the Defendant will be placed on a two-year supervised probation. 10 -60 days jail will be imposed as a condition of the Defendant's probation. The Defendant will be ordered to complete 36 weeks of domestic violence counseling. No credit will be given for previously attended, but not completed, treatment.

**Sentencing Guidelines**

First Offense	Deferred Sentence or Supervised Probation No jail as a condition Revocation of D/S = Probation w/10-60 days jail Revocation of Prob. = jail of at least statutory minimum (i.e., M-1 = 180 days, M-2 = 90 days, M-3 = 30 days)
Second Offense	Supervised Probation 10-60 days jail as condition Revocation of Prob. = jail of at least statutory minimum (i.e., M-1 = 180 days, M-2 = 90 days, M-3 = 30 days)
Third Offense	Supervised Probation 60 days jail as condition Revocation of Prob. = jail of statutory minimum + 60 days (i.e., M-1 = 240 days, M-2 = 120 days, M-3 = 90 days)
Fourth Offense	Maximum jail by statute (i.e., M-1 = 24 months, M-2 = 12 months, M-3 = 6 months)
Fifth Offense + Felony Habitual Domestic Violence Offender	

## APPENDIX L: REFERENCES

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