The Judicial Oversight Demonstration (JOD) Initiative is funded by the U.S. Department of Justice's Office on Violence Against Women with assistance from the National Institute of Justice. The Vera Institute of Justice provides centralized technical assistance, and the Urban Institute is working in coordination with the sites to conduct a national evaluation of the initiative and its programs. To learn more about the work in Milwaukee, Dorchester, and Washtenaw and about other JOD activities, or to request technical assistance or consultation, visit our web site, www.vera.org/jod.

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This project was supported by Grant No. 97-WE-VX-K002 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

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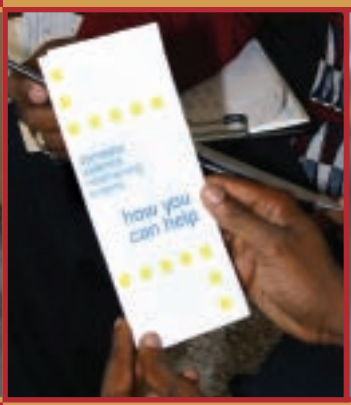
ENHANCING RESPONSES TO DOMESTIC VIOLENCE

PROMISING PRACTICES FROM THE JUDICIAL OVERSIGHT DEMONSTRATION INITIATIVE

Engaging Respondents in Civil Restraining Order Cases: A New Approach to Victim Safety



Acknowledgements

Funding for this project was provided by the U.S. Department of Justice's Office on Violence Against Women (OVW). We would like to extend a special thank you to OVW Director Diane Stuart, former Deputy Director Catherine Pierce, Assistant Director Darlene Johnson, and Program Specialists Michelle Brickley and Ila Blue for their continued support and direction on this initiative.

We wish to thank the following individuals and organizations for their participation in and support of this project:

Dorchester Judicial Oversight Demonstration Initiative

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Introduction

Domestic violence differs from other types of crime in that it takes place between people who are bound by complex emotional ties and who may share property, living quarters, acquaintances, and even children. Intervening in such an emotionally charged context is difficult, as it can potentially spark an escalation of violence. While many victims of intimate partner violence look to the criminal justice system for relief, some seek out alternative means of help. Civil restraining orders, which place specific restrictions on the behavior of an abusive partner without imposing criminal charges, represent one such alternative (see box on Restraining Orders on page 2).

Many abusive partners served with a civil restraining order (henceforth "respondents") abide by the order's terms without incident. Experience shows, however, that some individuals become agitated at what is, in their view, an intrusion into a private matter. Such individuals often direct their anger toward their partner for having sought outside intervention and may be most angry when leaving the courthouse immediately after the restraining order hearing—especially if they have unsuccessfully challenged the order. At the same time, there are also respondents who do not understand courtroom procedures or how restraining orders work. While this is especially true of recent immigrants with a poor grasp of English, complex legal language can present difficulties for anyone not familiar with the court system.

The Judicial Oversight Demonstration Initiative

In 1999, three jurisdictions—Dorchester District in Boston, Massachusetts; Milwaukee County, Wisconsin; and Washtenaw County, Michigan—embarked on an ambitious effort to improve criminal justice and community responses to domestic violence. The Judicial Oversight Demonstration (JOD) Initiative, funded by the U. S. Department of Justice's Office on Violence Against Women and managed by the Vera Institute of Justice, brought together in each site judges and defense attorneys and prosecutors, advocates for women and batterer intervention specialists, probation agents, police, and others to develop new ways to enhance victim safety and the oversight of offenders in their communities.

Five years later, each jurisdiction's efforts reflect their particular local circumstances and needs. This report is a part of a series that explores the innovations in Dorchester, Milwaukee, and Washtenaw so that other jurisdictions can learn from their experience.

For more information about the Judicial Oversight Demonstration Initiative, or to view other publications in the Enhancing Responses to Domestic Violence series, visit www.vera.org/jod.

In response to these complex issues, the Judicial Oversight Demonstration (JOD) Initiative in the Dorchester District of Boston, Massachusetts, designed and implemented the Dorchester Community Outreach Worker Program to enhance victim safety in civil restraining order processes (see box on JOD above). By making an outreach worker available to meet one-on-one with civil restraining order respondents as they enter and leave the courtroom, the program seeks to ensure that victims (or "plaintiffs") can leave the courthouse safely following a civil restraining order hearing. Also, by ensuring that respondents receive clear and accurate information about restraining orders and appropriate social service referrals, the program seeks to reduce the likelihood of unintentional violations of court orders. Although victim advocates continue to be available in the court to assist plaintiffs, the preference for this more holistic approach to victim safety is grounded in the idea that an outreach worker who deals with the needs of civil restraining order

Restraining Orders

Restraining orders seek to protect people who have suffered physical abuse, harassment, or threats. While their names and conditions vary from jurisdiction to jurisdiction across the nation, restraining orders generally fall into two categories: those initiated by a prosecutor or judge as part of a criminal case, and those initiated by the victim in a civil action ("civil restraining orders"). Civil restraining orders can be especially useful for those who suffer domestic violence, yet who, for whatever reason, are hesitant to engage the criminal justice system. In this report, we are exclusively concerned with domestic violence civil restraining orders.

Domestic violence civil restraining orders use a variety of provisions. Some provisions require no contact at all between the abusive partner and the victim ("no-contact orders"), while others allow contact but prohibit abuse ("no-abuse orders"). Still other provisions involve temporary child custody and the surrender of any firearms and ammunition.

respondents serves as an added safety feature for the plaintiff.[1] In addition, as part of a broader effort to curb domestic violence before it escalates and requires intervention by the criminal justice system, the outreach worker conducts workshops and informational sessions in the surrounding community.

Dorchester District

The Dorchester Division of the Boston Municipal Court Department (henceforth Dorchester Court) serves the Boston, Massachusetts, neighborhoods of Dorchester and Mattapan. According to the 2000 U.S. Census, most of the district's 130,000 residents belong to minority groups.[2] The district is also home to sizeable Haitian, Latino, Vietnamese, Cape Verdean, and Irish immigrant communities. (About one-quarter of Dorchester district residents are recent immigrants.) Dorchester has a history of collaboration between courts and advocacy groups in addressing issues of domestic violence. The Dorchester Court Roundtable, an organization established in 1991 by a Dorchester Court judge, later grew into the Dorchester Community Roundtable, a project that placed victim advocates in community hospitals and the local district attorney's office. The federally funded JOD Initiative, which took a lead role in getting the outreach program up and running, has been active in Dorchester since 1999.

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Origin and History of the Dorchester Community Outreach Worker Program

The Dorchester Community Outreach Worker Program is unusual in that it represents a cooperative effort between the local victim advocacy community and the defense bar, two stakeholder groups that are often at odds with each other. The JOD subcommittee that conceived and implemented the program included representatives from a victim service agency, the probation office, the district attorney's office, a certified batterer intervention program, the Dorchester JOD project, and the defense bar.

[1] Due to lack of resources, the program's effectiveness is not currently under study. Consequently, much of the evidence presented here is based upon the experience and opinions of people who work in the court system and those who have been involved in the design and implementation of the program.

[2] The population of Dorchester District represents about one-fifth of the total population of Boston. Among district residents, 48 percent are African American, 12 percent are Latino, and 8 percent are Asian.

When it launched in January 2002, the outreach worker program was housed at the Massachusetts Prevention Center, an initiative of the Massachusetts Department of Public Health that provides public health resources to the community, and employed two outreach workers. Later, staff turnover and budget cuts saw the program downscaled and relocated. It is currently administered by the Domestic Violence Program of the Boston Public Health Commission and employs a single outreach worker.

The Role of the Outreach Worker

Alex Alexandre, who emigrated from Haiti and has several years' experience working for community-based batterer intervention programs, has served as an outreach worker since October 2004. Alexandre's role consists of two distinct functions: meeting directly with restraining order respondents who do not have open criminal cases and who come to the restraining order hearing, and conducting community outreach in the Dorchester area.[3]

Meeting with Respondents

A typical day for Alexandre begins with a visit to the restraining order office adjoining the courtroom. After reviewing the day's list of noncriminal restraining orders, he calls out the respondents' names in court, one at a time, inviting each to join him briefly in the hallway. Once he is "alone" with a respondent, Alexandre explains the courtroom procedure and asks the respondent to read the restraining order affidavit. Should the respondent dispute the content of the affidavit, Alexandre explains that his role is not to argue the merits of the allegation, but rather to explain how the court process works and the consequences of violating court orders, or as he puts it, "This is what a restraining order hearing is and this is how the hearing works." Alexandre has found that meeting with respondents before the hearing has two advantages: it ensures that respondents know what to expect in the courtroom, and, having already made their acquaintance, it makes it easier for Alexandre to step in and defuse respondents' anger in the volatile period immediately following the hearing.

Approaching the respondent in the courthouse as he leaves the hearing is key.[4] "If the outreach worker is available right away to talk with the respondent and draw his attention away from the plaintiff, that functions as a safety measure that works out well for the plaintiff," says Janet Donovan, a plaintiff lawyer from Casa Myrna Vazquez, a community-based victim advocacy organization. It also gives the plaintiff a chance to speak with her advocate and to leave the courthouse without encountering the respondent.

Outreach Worker Alex Alexandre's role consists of two distinct functions: meeting directly with restraining order respondents who do not have open criminal cases and who come to the restraining order hearing, and conducting community outreach in the Dorchester area.

[3] In Massachusetts, individuals served with a civil restraining order have a right to contest the order in court within 10 days of its issuance. Not all civil restraining orders are contested. The Dorchester Outreach Worker Program was designed to engage those respondents who appear at court for the restraining order hearing. Some of these individuals intend to challenge the restraining order; others are simply confused about the legal process.

[4] Because the vast majority of respondents are men, we refer to the respondent as male. Likewise, most plaintiffs are women. However, the outreach worker's role is not gender-specific. Should a woman be served with a civil restraining order, the outreach worker would meet with her as with any other respondent.

Judge Sydney Hanlon says that addressing the respondent's immediate needs contributes to victim safety.

JOD Project Director Deirdre Kennedy further argues that the outreach worker fills a gap in the traditional response to domestic violence.

In addition to helping the respondent to cool down, Alexandre explains the terms of the restraining order in clear, accessible language. If it is a no-abuse order, he says, "I explain to them what abuse means. Some think that abuse is only physical." If it is a no-contact order, "you have to explain to them what no-contact means, what third-party contact means." Alexandre makes sure that respondents understand that violating a civil restraining order is a serious criminal offense. "Some respondents are intimidated by the court system, and they don't necessarily understand what the judge has said," says defense attorney Cathleen Bennett. "In these emotional circumstances and even in regular circumstances they may not understand what the judge is trying to convey. So having someone there who can actually walk out with them afterwards and translate and make sure the respondent understands everything is a very good thing." Informing respondents about restraining orders also helps ensure that orders are not violated unknowingly.[5]

Individuals served with a civil restraining order often face an array of life challenges, which Alexandre encourages them to address. If a respondent has been living with the plaintiff, being served with a restraining order may mean—at least temporarily—finding a different place to live. Respondents may also need to find employment to help meet child support obligations; some may need treatment for substance abuse as well. Alexandre is available to help the respondents find referrals to local shelters, job placement centers, and substance abuse facilities. He can also discuss child support obligations and help respondents learn about child visitation rights. JOD Project Director Deirdre Kennedy points out, however, that the outreach worker "is not a caseworker. He responds to people when they call him," but he is not responsible for keeping detailed records on respondents or providing long-term support.

Having the outreach worker on hand for service referrals can also benefit the victim. As Judge Sydney Hanlon explains, addressing the respondent's immediate needs contributes to victim safety: "To the degree that respondents feel they have been treated respectfully and compassionately, and offered help to change the behavior that brought them to court, they will be more likely to respect [the terms of the restraining order and the rights of the victim]." Moreover, some victims hesitate to file for a restraining order out of concern for the order's impact on the respondent. In such cases, knowing that an outreach worker is available can reduce the victim's hesitation.

Should the respondent express a desire to talk about the victim, Alexandre steers the discussion back to the respondent: "I'm concerned about you, you have the problem, let's focus on you." He concludes the discussion by providing the respondent with contact information; in some instances, and with the respondent's permission, he makes follow-up calls. When there are no child-support or housing issues, Alexandre typically spends between 10 and 15 minutes with a respondent immediately after the hearing. Helping a respondent find a shelter usually requires additional time. Alexandre says he meets with between 5 and 12 respondents on an average day.

Alexandre has found that most respondents are grateful for his work. "Since they are respondents in a case, it is unusual for someone to actually call and talk to them," he explains. Most victims, once they understand that the outreach worker is not an

[5] Some respondents will ignore the restraining order no matter what. The outreach worker program is most effective with those who are inclined to comply, but whose commitment may waiver as a result of anger or ignorance.

advocate for the respondent, react positively as well. "I think plaintiffs are glad to hear that someone is talking, some would say 'man-to-man,' with the other party," says Donovan, the civil plaintiff advocate. Kennedy, the JOD Project Director, reports that judges are enthusiastic about the program too. "The judges absolutely love it," she says, "because it gives them another resource within the court: a person who can work with people to answer their questions and provide a measure of safety for victims leaving the court."

Kennedy further argues that the outreach worker fills a gap in the traditional response to domestic violence. "The range of domestic violence is tremendous—everything from very mild abuse that may not even fit the definition of domestic violence all the way to abuse that is potentially lethal," she explains. "The Outreach Worker Program gives us an opportunity to intervene on the lower end of the scale, in those incidents of abuse that we are never going to get in criminal court. Hopefully this program gives us an opportunity to intervene [in those lower-end incidents.]" From a purely administrative point of view, the Outreach Worker Program also boosts courtroom efficiency. "If the respondent understands the restraining order system and what he can ask for and what he cannot," Judge Hanlon explains, the entire process "just works faster and more easily."

Community Outreach

In addition to meeting one-on-one with respondents in the courthouse, Alexandre conducts workshops and informational sessions for the broader community. These sessions usually target men who are at risk of using domestic violence. Shelters and substance abuse facilities are common venues (although Alexandre also appears at English as a Second Language classes, religious gatherings, and YMCA groups). The workshops seek to change cultural norms by emphasizing that domestic violence is not acceptable behavior and that a conviction for a domestic violence crime can carry a stiff penalty.[6] "Some people still think that restraining orders are outrageous," explains Alexandre, citing one of the many reasons there is a need for further community education about domestic violence.

Community education also serves a wider role among the district's immigrants. Because the violation of a civil restraining order can lead to deportation for non-U.S. citizens, respondents need to be clear about the possible consequences. "We want to make sure that new immigrants fully understand what the law is and that they are given an opportunity to comply with it before we start to take very serious steps in upholding our domestic violence laws," says Kennedy. Many people do not realize, for example, that while a victim of domestic violence can initiate a civil restraining order, only a judge can rescind or change it. Similarly, family and friends of both partners often fail to grasp that no-contact orders prohibit contact by third party intermediaries.[7] Finally, by leading informational sessions and workshops Alexandre is able to become familiar with organizations and programs that are active in the community. This helps him to make more informed human service referrals.

In addition to meeting one-on-one with respondents in the courthouse, Alexandre conducts workshops and informational sessions for the broader community.

[6] In Massachusetts, violation of a civil restraining order is a criminal offense punishable by incarceration for up to two years. For non-U.S. citizens, violation of a civil restraining order can be grounds for deportation.

[7] The Dorchester JOD project has developed an informational brochure, *Domestic Violence Restraining Orders: How You Can Help,* for family and friends of civil restraining order respondents. Alexandre provides respondents with a copy of the brochure when he meets with them.

Developing an Outreach Worker Program

For court personnel and community leaders interested in emulating the Outreach Worker Program in their own jurisdictions, both Alexandre and Kennedy, the JOD Project Director, stress the importance of hiring a qualified outreach worker. Kennedy recommends that outreach workers have "a background working for a batterer intervention program so that they fully understand the issues around not colluding with people and really understand the safety implications." Because many of the respondents are very angry when they leave the courtroom, Alexandre says, "If you don't know how to diffuse that anger by talking to them, you cannot do the job." In drafting the program, the JOD subcommittee had recommended hiring a culturally competent outreach worker, preferably bilingual or multilingual, from the local community.

"Alex needs to be able to talk about issues with someone he trusts who is there for him."
— Carmen Del Rosario, Alexandre's primary supervisor and a longtime victim advocate and Director of the Domestic Violence Program at the Boston Public Health Commission.

Those who have worked with the program also stress the need for providing the outreach worker with clear and consistent supervision. Strong supervision helps prevent the outreach worker from inadvertently colluding with respondents. It also provides much-needed support, as he works alone much of the time. "Alex needs to be able to talk about issues with someone he trusts who is there for him," explains Alexandre's primary supervisor, Carmen Del Rosario, a longtime victim advocate and Director of the Domestic Violence Program at the Boston Public Health Commission (BPHC). "Otherwise," she says, "there is a risk of job burnout." Strong supervision can also help address any concerns the general public may have about the program's methods and goals. Alexandre meets with Del Rosario and other members of the BPHC Domestic Violence Program staff each week. At these meetings, staff members present recent cases—without naming names or discussing specifics—for comments or questions from the group. Alexandre can also discuss his cases in his weekly one-on-one supervision meetings with Del Rosario. And because Kennedy's office is located in the Dorchester courthouse, Alexandre is able to seek guidance from her whenever he has a question about court procedures.

Del Rosario recommends that supervisors engaged in setting up an outreach worker program begin by taking stock of the particular community's circumstances and needs. "Before people start an outreach worker program they should get a number of key players at the table to talk about why they are doing it, how they are going to do it, why it's important in the community, and what it would look like in their particular community," she says.[8] After all, she notes, different circumstances may require different responses: "We could transfer some of our experience here, but it doesn't have to work the same way someplace else." Kennedy does stress, however, the value of "supervision that is done by a victim advocate professional." This arrangement ensures that victim safety is always a priority and that outreach workers understand the consequences of their contact with offenders.

[8] Key players might include the clerk's office, the judge or magistrate who is charged with issuing restraining orders, victim advocacy organizations (especially those that provide court support to victims seeking civil restraining orders), batterer intervention program providers, bailiffs or other court security personnel, the local defense bar, prosecutors, and other relevant players who can help provide guidance, information, and resources.

Special Considerations

Dorchester's outreach worker program faced a number of challenges when it was first implemented. Chief among these was skepticism from some outside groups stemming from a misperception about the role of the outreach worker. While representatives from victim service agencies, batterer intervention programs, and the district attorney's office all helped design the program, the participation and support of these organizations—indeed, of the community at large—may not have been apparent to those beyond Dorchester. As a result, the program was faulted in some quarters for providing "advocates for abusers." Program administrators responded to these charges with a published rebuttal that underscored the program's dedication to victim safety and pointed out that local victim service agencies supported the program. The rebuttal further explained that the outreach worker does not strategize with respondents. Program administrators also convened several meetings with court personnel to explain the role of the outreach worker. Together, these measures helped clear up most misunderstandings surrounding the program.

Conclusion

By hiring a community-based outreach worker to engage with restraining order respondents as they enter and leave the courtroom, the Dorchester Community Outreach Worker Program has helped make civil restraining orders a more useful tool for victims of domestic violence. The experience of Dorchester Court suggests that, given proper training and supervision, an outreach worker can improve victim safety; help the court run more smoothly; ensure that the community is well-informed about restraining orders; and give respondents a chance to change their behavior before it leads to criminal charges. Although the program focuses on the respondent, it also offers substantial benefits to others involved in the restraining order process—particularly the plaintiff, who is able to leave the courthouse in safety or speak with her advocate after the hearing. For more information on the Dorchester Community Outreach Worker Program and other responses to domestic violence in Dorchester Court, see the Resources section.

Outreach Worker Program Guidelines

The following items are guidelines for outreach workers; they are not intended to serve as a comprehensive protocol. (The Boston Public Health Commission, with the assistance of the JOD Advisory Board, is currently developing a formal protocol.)

The outreach worker's duties include:

1) Making contact with the respondent at the courthouse before and after the civil restraining order hearing. In some instances, the outreach worker (OW) makes follow-up calls to the respondent after the hearing. Because speaking with the OW is voluntary, the OW is required to obtain consent before working with the respondent.

2) Explaining in clear, nontechnical language the civil restraining order process, what to expect from the court hearing, and the meaning of terms in relevant legal forms and documents. The OW is not permitted to strategize with respondents; advise respondents on how to get what they want from the court or judge; compose affidavits or legal forms on the respondent's behalf; or give legal advice.

3) Referring respondents to shelters, job placement centers, job training programs, substance abuse treatment facilities, and educational programs.

4) Emphasizing to the respondent that the OW is not an advocate, that the OW does not stand beside the respondent in court, and that the OW cannot speak on behalf of the respondent in court.

5) Avoiding at all costs collusion with respondents. The OW should remain a neutral provider of information.

6) Avoiding discussion of the details of the respondent's case. The OW should emphasize that communication between the respondent and OW is not confidential and that anything the respondent says can be used against the respondent in court.

7) Immediately informing a supervisor about any threats against victims, children, or others, or whenever the OW has significant concerns about the safety of the victim or others. (Supervisors are bound to follow court protocols after receiving information about a credible threat.)

8) Requesting the services of an interpreter when the respondent does not speak English and the outreach worker cannot communicate in the respondent's native language.

9) Meeting at least once a week with a supervisor.