

A Study of the Clay County Domestic Violence Court – Offender and Victim Perceptions of Procedural Justice

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Executive Summary

As part of the evaluation of the Clay County Domestic Violence Court, a second study was undertaken beginning in the spring of 2014 and terminating in the fall of 2014. This report provides a brief summary and several recommendations for the Court based on interviews with offenders and victims who were privy to the court process. Specifically, this report is a compilation of offender and victim interviews regarding their perception of procedural justice.

Interviews were conducted with domestic violence offenders who had been in the program for at least six months. Offenders were much more willing to be interviewed than victims and seemed somewhat willing to talk about the court process and their sense of fairness with procedures. Victims were much more reluctant to come forward and discuss the process, despite repeated attempts to contact them.

Offender interview themes that emerged were the following: 1) almost all of the offenders felt that the batterer treatment program was assisting them in resolving their violence issues and issues with females; 2) every offender felt that the court held them accountable for the conduct that landed them in court; 3) most offenders reported the perception that the court was biased toward victims; 4) despite this perception, almost all offenders felt that the outcome in their case was fair and just.

Victim interview themes that emerged were the following: 1) almost all of the victims reported positively on the handling of their case; 2) there is some disjunction between victims' case interpretation and that of the prosecution office, leading to confusion and some disgruntlement among victims; 3) the DV Court process is enhancing victim safety perceptions.

Two recommendations emerge from this report:

- 1) The prosecution office might wish to spend more time with victims exploring their prior experiences with the court process and then communicating more clearly to novice victims about court procedures in domestic violence cases. Regardless, most victims perhaps may require more communication regarding the reasons for issuing a DANCO/NCO in their case.
- 2) The court might wish to consider giving offenders more time to explain their side of the story. It appears that offenders simply wish to be heard more thoroughly by the court. Again, their outcome might not change but providing them with more time to vocalize their concerns could go far toward reforming their conduct.

Introduction

This study examines themes that emerged as a result of interviews with domestic violence offenders and their victims. The Domestic Violence Court (hereafter DV Court) commenced operation in October of 2011 following the receipt of an October 2010 federal funded planning and implementation grant dedicated to a Domestic Violence Court. The Court subsequently assembled a team of affected providers to plan the operation of the Court. This included constructing a policy and planning document as well as the construction of a participant's handbook.

To ensure fidelity to the process, the DV Court maintained a Planning Team. The Planning Team met regularly prior to and during the DV Court implementation. The purpose of these meetings was to provide a regular forum whereby Planning Team members and other parties to the DV Court could discuss issues, construct solutions to problems, and coordinate the Court through clear and transparent communication channels.

According to the program manual, the DV Court agreed to accept all cases involving allegations for domestic violence between intimate partners. Eligibility criteria was established in the Planning manual and screening was conducted by the District Attorney's office. Cases eligible included: 1) allegations of intent to cause fear in another or immediate bodily harm or death, 2) the intentional infliction, or attempt to inflict bodily harm upon another, 3) terroristic threats, 4) criminal sexual conduct, 5) interference with an emergency call, 6) stalking, 7) violation of a domestic violence no contact order, 8) violation of an order of protection, and 9) violation of a harassment restraining order. The majority of these convictions were for domestic assault (57%). The Planning Team agreed to screen initially for these cases but allowed for the

admission of cases that might have involved the commission of another crime which may have been motivated by domestic violence (e.g. burglary).

The three goals of the DV Court are to 1) ensure victim safety, 2) hold offender's accountable for their current and future actions, and 3) coordinate services among agency providers. This report examines whether the DV Court process was perceived as fair, just, and equitable by offenders and victims. Further, the Court was interested in determining how well offenders and victims understood the court process. This is largely a procedural justice issue. About a decade of research in the criminal justice field now suggests that process is more important than outcome in determining future conduct of offenders. That is, if offenders perceive that they were treated in a fair, just, and equitable manner by the court, they are less likely to repeat their criminal mistakes in the future.

The chief question addressed in this study is whether this DV Court was perceived by domestic violence offenders and victims as exhibiting and delivering procedural justice. One of the chief differences between the previous court process and DV Court was in the streamlining of services in terms of hearings and community services. Rather than having multiple judges presiding over domestic violence cases, the planning and implementation grant followed the "one judge integrated domestic violence model." In Clay County, two judges were initially assigned to DV Court (Judges Borgen and Kirk). Over the past few years, several judicial changes have altered the structure of the DV Court with Judge Lawson replacing Judge Kirk and more recently, Judge Fritz replacing Judge Borgen. Another key difference between the previous processing of domestic violence offenders and the DV Court is the addition of a Domestic Violence Court Coordinator. The Coordinator's role is to coordinate planning and development for the court. In addition, the role as stated in the Planning Document is to ensure

quality of training, screen cases for eligibility, monitor caseloads, prepare reports, and work closely with all of the various collaborating agencies. Finally, a key difference lies in the coordinated efforts by multiple agencies to regularly communicate about the progress of domestic violence cases. This includes the routine involvement of all parties in hearings and trials at a designated day (Wednesday) as well as once a month planning meetings to discuss and resolve issues that may arise as a result of court processing.

Offender Interviews

The interview form for offenders (see attached) consisted of eight questions. Most of the questions addressed offenders' sense of understanding of the court process as well as their perceptions regarding how they felt they were treated by the court, including perceptions of fairness and equity. Some interviews were conducted following offender sessions with batterer treatment group and some were conducted following their review hearings in court (Wednesday morning). Offenders were selected for interview who had been through at least six or more treatment sessions. A couple of them responded to an interview during their last few batterer treatment sessions.

As a result of sitting through and observing four treatment sessions, I was able to discern how this process of cognitive therapy worked. Some offenders were fairly verbal during these sessions and some were not. Some needed to be prodded to talk through some of their issues. This prodding did not always need to be initiated by the facilitators. Several participants moved their fellow participants to discuss their issues and/or elaborate on how they were dealing with issues in their lives. After observing several treatment sessions, it appeared that offenders were engaged in the process. Virtually all of them took the sessions serious. Those that had been to

many sessions seem to grasp the tenets of cognitive behavioral therapy quite well and were almost familiar enough with the principles to be able to amateurishly co-facilitate at times.

Virtually all of the offenders contacted were willing and agreeable to conducting an interview. In spite of their willingness, most of the offenders were fairly tight lipped about the court process and did not seem highly willing to disclose too much regarding their feelings surrounding the court process. This is not a knock on the court or treatment process but merely an observation about the lack of verbal ability amongst these types of offenders.

Still, most of the themes that emerged from the interviews were positive. Like much qualitative data, there are inconsistencies and contradictions in some of the themes. Below is a listing of themes that emerged:

- 1) Most offenders felt that their cases were handled in a fair fashion by the court. It was not clear from the interviews if offenders felt that their cases were handled fairly or if they were simply giving the court a grade of “fair” based on the handling of their case. Those that stated that the court handled their case poorly did not always give negative follow-up responses. For instance, one offender who stated his case was handled poorly did not wish to elaborate on the reasons behind this sentiment. Several offenders downgraded the court handling of their case by citing the work of the public defender as “rushing them through the process.”
- 2) About half of the offenders felt that they were given adequate time to tell their side of the story and half reported feeling cheated. One offender reported that “my actions were brushed aside.” The court only seemed to care about her side of the story.” A few offenders reported being intoxicated enough during the incident that they had to rely on “others accounts” of the incident so they did not feel they were positioned well enough to

defend their side of the story. A few offenders reported that their attitudes changed after being in court and attending batterer treatment sessions. A few even reported enjoying attending court and batterer treatment because it gave them some understanding of themselves. A few offenders who hired private attorneys felt that they received very little justice for the money they paid out.

- 3) A strong majority of offenders felt that the outcome in their case was fair/just. Even those that earlier expressed dissatisfaction with the process reported that they were not unhappy with their outcome. Again, several offenders reported that batterer treatment sessions opened their minds to some of their faults and to “stop blaming others” for their conduct. A few reported that their initial reactions to the court process was that it was biased against them but that treatment made them rethink their actions and after several months, they came to realize their wrongs. A few offenders reported feeling relieved that some of their charges were dropped. Many felt that the court was being fair with them in this regard.
- 4) Virtually all of the offenders reported feeling that they were treated with respect and dignity by the court. A few offenders reported feeling respected when the judge referred to them as “sir.” Few elaborated on why they felt respected by the court other than the idea that “the judge treats people fairly.” Only a few negative comments emerged in this domain. One offender reported feeling out of place when he had to come to court in his orange jumpsuit while other offenders were in civilian clothes. Another simply reported that the judge did not listen to him.
- 5) The question dealing with offenders’ understanding of the court process indicated that almost all offenders understood the court process either very well or somewhat. A few

offenders reported being “in court enough” so that they knew about procedures. Overall, there were only a couple of offenders who felt confused by the system. They simply reported that they “did not know what was going on and were confused by the process.”

- 6) All of the offenders reported that the court held them adequately accountable for their conduct in the case. If one of the goals of DV Court is to hold offenders accountable for their actions, then on this basis the court is succeeding. A few offenders reported that the time spent in jail and paying court costs alone made them accountable for their actions. But the sentiment from these interviews was that regular court appearances and batterer treatment gave them the feeling of accountability.
- 7) All of the offenders felt that the batterer treatment program either “very much” or “somewhat” helped them resolve their violence issues. A few comments emerging from these interviews on this matter include the following:
 - a. “I felt that I could resolve our arguments differently”
 - b. “I felt that the treatment program helped me open up about my feelings”
 - c. “The program helped me to use tools to deal with my anger.”
 - d. “I learned a lot about myself and how to recognize and deal with my faults.”
 - e. “I learned some new and different things about myself.”
 - f. “The program helped me to understand relationships better.”
 - g. “I learned a lot from this program. I learned that I fit into more categories of the violence wheel and that there are many types of violence.”
 - h. “The program is fine. I just wished I had started it sooner.”

Victim Interviews

The victim interview form was somewhat similar to the offender form with a few differences (see attached). Like the offender interviews, the court team was interested in victim perception of the court process, specific to their case handling. In addition, the DV Court process is geared to making victims feel safer as a result of the handling of their related case. Consequently, victims were asked whether the DV Court process enhanced their safety.

Regrettably, very few victims were willing to be interviewed for this project. Many phone messages were left and not returned. A few victims who were approached about being interviewed declined. Still, those who were agreeable to an interview provided some rich details regarding their sentiments on the court process. The victim interviewees were much more communicative than the offenders.

Below is a listing of themes that emerged:

- 1) Victims were more satisfied with the handling of their case in DV Court than offenders. It is not clear how many victims attended the court sessions but overall, their comments about the handling of the case was quite positive. Only one victim reported that she was unhappy with the handling of the case and complained that the process was too lengthy. Most victims commented on the way their cases were communicated in terms of progress, stating that they were kept in the loop. A number of victims commented on the positive way that the victim advocate responded to their case and kept them informed about progress.
- 2) The DV Court team was interested in assessing the wishes of victims following the arrest of the offender. Most of the victims reported that they wanted to either drop the charges altogether or drop the charges if the other person (offender) got help. Most of the victims

interpreted the offender's actions as in need of therapy, either in the form of violence treatment or substance abuse treatment. As a result, few were willing to move forward with pressing charges. Few victims interpreted their cases as strictly legal in the sense that the offender had violated criminal law.

- 3) As a result of these interpretations, few victims who were interviewed were in favor of having a Domestic Abuse No Contact Order (DANCO) or a No Contact Order (NCO) in place. Several victims reported that they were initially in favor of the DANCO being issued but changed their mind after several weeks had transpired. In spite of these sentiments, in almost all of these cases, the court ordered a DANCO or NCO. So, clearly there exist differences between victim assessment of the seriousness of the case and the view and sentiment of the prosecutor's office. This is not a surprising pattern since prosecutor's offices nationwide have wrestled with convincing victims about the need for their safety. Victims sometimes interpret their situations differently and have a difficult time in defining these incidents as "public wrongs."
- 4) Victims reported several reasons why they felt a DANCO/NCO was not needed in their case. Several victims reported that they felt the case did not "qualify as a domestic" and therefore did not feel that a DANCO/NCO should have been issued. One victim reported that her child needed contact with the offender (father). There were however, several victims who felt that the DANCO/NCO was necessary to "control the offender." Several reported that they did not want the incident to be repeated and felt the DANCO was necessary to protect them.
- 5) The DV Court team wished to learn how much assistance was given to victims from the prosecutor's office. The interviews produced a mixed bag of responses from victims.

Most of the victims reported that the prosecutor's office was quite helpful and regularly communicated the progress of their cases with them. One victim reported that there was "good communication in place with all the parties involved." Another reported that the prosecutor's office victim advocate contacted her multiple times and that she received "regular information" regarding her case. Several victims reported being unhappy with the way their case was handled. Based on their responses to the previous questions about the handling of their case, it appears that they were unhappy with the prosecutor's office moving forward with a DANCO/NCO when they did not feel that one was necessary. As a result, they interpreted this issue as "not having their wishes heard." Based on the question wording, it appears that their wishes were heard but that the prosecution office decided to move forward by issuing a DANCO/NCO in spite of these wishes.

- 6) All of the victims reportedly felt that they were treated with respect and dignity by the court. Few victims elaborated on how they felt treated well but it appears that this was not an issue.
- 7) Like the offender interviews, victims were asked how well they understood the court process. Here, responses seemed mixed. Most victims appeared to understand the court proceedings. These victims apparently had been through criminal court proceedings previously. Unlike offenders however, some victims likely had not had previous contact with the criminal court system. Those that did not, appeared to find this process confusing. The major complaint from victims who seemed confused by the process was the length of time it took to get the case resolved. One victim reported that "her case never seemed to have an end in sight." She could not understand why the process too so

long. Another reported that “someone needs to explain the court process more clearly to victims.”

- 8) One of the chief goals of the DV Court is to enhance victim safety. In this regard, a question was posed whether the victim felt safer as a result of the DV Court process. All of the victims save one, felt that the court process made them feel safer. One victim reported that “she no longer felt threatened by him.” Another reported “feeling safer now as a result of the court process.” One victim had been through domestic violence court proceedings in a different Minnesota county. She reported that the Clay County Court did a much better job of dealing with her case than the other court. She reported that the procedures were clearer in Clay County.
- 9) Like offenders, victims were asked whether they felt that the outcome in their case was fair or just. Most of them felt that the outcome in their case was fair/just. One victim reported that “this was a positive experience overall.” She followed this up by stating that the costs incurred against the offender were justified and that it was a good idea to “force treatment on the offender.” A few victims were taking a “wait and see” attitude regarding their cases. In other words, they were not sure how this process would play out. Perhaps some of them were waiting to see how offenders would respond in the future after they completed batterer treatment.

Conclusion and Recommendations

Overall, it appears that the goal of procedural justice was and is being met by the DV Court. Offenders do not appear to be terribly angry about the process and outcome of their cases. While many of them are initially unhappy with their outcome, they do not appear to define the process as being unfair or unreasonable. One reason for this is that all of the offenders

interviewed were well into batterer treatment at the time of the interview. So, many have them had time to settle down, think about their situations, and then process information as they sat through multiple treatment sessions. Attending treatment at first is balked at by many participants. But, after sitting through multiple sessions, many of them appear to be “getting the picture” and self-reflecting on their conduct and their attitude toward women. The bottom line from this perspective is that the coupling of DV Court with batterer treatment seems to be working. The DV Court holds the offender accountable for attending batterer treatment sessions and treatment appears to be fortifying the message from the bench that violence is not to be tolerated and that there are alternative ways to cope with anger. Here again is the value of a coordinated team approach to resolving violence issues.

The most important facet of the victim situation is their feeling of safety. This is clearly being accomplished by the DV Court. This is an interesting pattern since several victims did not see the need for a DANCO/NCO. Many victims continue to fail to define these offenses as public wrongs. So, many of them resist having the offender be disallowed from having contact with them. Despite this, many report feeling safer. Perhaps some victims may not connect the DANCO/NCO decision as contributing to their safety. In spite of their differences with the prosecutor’s office, most victims largely felt that the process was fair and respectful.

There were several victims who appeared to be confused by the court process. It was not clear if the procedures were not clearly communicated to them or whether the confusion arose as a result of the prosecution office moving forward with charges and DANCO’s/NCO’s being issued despite victim protests. To be safe in the future, it might be wise for the prosecution office to press victims regarding their previous experiences with the court system. First time

victims may be unfamiliar with the court process and this confusion could lead to lack of cooperation with the court.

Several recommendations emerge from these interview themes:

- 1) The prosecution office might wish to spend more time with victims exploring their prior experiences with the court process and then communicating more clearly to novice victims about court procedures in domestic violence cases. Regardless, most victims perhaps may require more communication regarding the reasons for issuing a DANCO/NCO in their case.
- 2) The court might wish to consider giving offenders more time to explain their side of the story. It appears that offenders simply wish to be heard more thoroughly by the court. Again, their outcome might not change but providing them with more time to vocalize their concerns could go far toward reforming their conduct.

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Domestic Violence Court Survey – Offender Survey

1. What is your overall impression of the way your case was handled by the Domestic Violence Court?
 - Excellent
 - Good
 - Fair
 - Poor

2. Do you feel that the court gave you adequate time to explain your side of the story?
 - Yes
 - No

Please explain

3. Do you feel that the judge was concerned with your side of the story?
 - Yes
 - No

Please explain

4. Do you think that the outcome in your case was fair/just?
 - Yes
 - No

Please explain.

5. Do you feel that you were treated with respect and dignity by the court?
 - Yes
 - No

Please explain

6. How well did you understand the court process as explained by the court personnel?

Understood it very well

Understood it somewhat

Was very confused

If you were confused, what was it that confused you about this process?

7. Do you feel that the Domestic Violence Court held you adequately accountable for your conduct in this case?

Yes

No

Please explain.

8. How much do you feel that the batterer treatment program helped you to resolve some of your violence issues?

Very much

Somewhat

Not at all

If not at all, what can the batterer treatment program do to improve resolving some of these issues?

Is there anything else you would like to add about the Domestic Violence Court?

Domestic Violence Court Survey – Victim Survey

1. What is your overall impression of the way the case has been handled by the Domestic Violence Court?
Excellent
Good
Fair
Poor

2. After the arrest of the other person, what did you want to happen?
I wanted to pursue criminal charges against the other person in this case
I wanted to drop the charges
I wanted to drop the charges if the other person got help (*for example, attend a domestic violence education program or a drug/alcohol treatment program*)
I wasn't sure what I wanted to do at the time
Other

3. Did the Court issues a Domestic Abuse No Contact Order (DANCO) or a No Contact Order (NCO) in this case?
Yes
No

4. Were you in favor of having the DANCO/NCO in place?
Yes
No

5. Do you feel that the prosecutor's office gave you an opportunity to discuss your wishes?
Yes
No

6. Do you feel that you were treated with respect and dignity by the court system?
Yes
No

7. How well did you understand the court process in this case?
Understood it very well
Understood it somewhat
Was very confused

8. A goal of Domestic Violence Court is to enhance victim safety. Do you feel that this was accomplished in the case?

Yes

No

9. Do you think that the outcome in the case was fair/just?

Yes

No