

Addressing Intimate Partner Abuse In Rural Jurisdictions
Using A Problem-Solving Court Model

by Kyle Marie Stock

Domestic Violence & the Law

Prof. Sarah Buel

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Abstract:

Kyle Marie Stock argues that rural jurisdictions should incorporate aspects of problem-solving courts into the adjudication of cases involving intimate partner abuse. Rural victims face unique variations of the obstacles to leaving an abusive intimate relationship. Problem-solving courts attempt to find creative ways to address persistent social and legal problems such as intimate partner abuse. Using the principles of problem-solving courts, rural jurisdictions can incorporate best practices for addressing intimate partner abuse in their communities.

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I. Introduction

Rural areas invoke images of fields with rows of corn or cotton, farmhouses, bright red barns, quiet and safety. Indeed, crime statistics indicate lower rates of violent crime in rural regions.¹ However, research also suggests that intimate partner abuse² is as likely to occur in rural regions as suburban areas.³ In addition, homicides between intimates constituted a greater percentage of murders committed in rural regions than those committed in suburban or urban areas.⁴ Although the proportion of intimate partner abuse is similar regardless of population, rural victims face unique obstacles to ending abusive relationships.⁵ These obstacles range from complex issues such as the concept of a public/private dichotomy to basic concerns such as extreme isolation.⁶

Some victims of intimate partner abuse, whether they live in rural or urban areas, will come into contact with the court system. A number of courts have been developing and improving methods for addressing issues faced by victims, defendants and communities.⁷ These problem-solving courts attempt to apply creative solutions to persistent social and legal problems such as drug addiction and intimate partner abuse.⁸ Problem-solving courts that address intimate partner abuse are referred to as domestic violence courts. These courts rely on two basic

¹ Bureau of Justice Statistics Criminal Victimization 2006

² The author has chosen to use the phrase “intimate partner abuse” rather than the more common “domestic violence” in order to note the wide range of behaviors perpetrated by abusers and the broad demographic of victims.

³ See Neil Websdale, & B. Johnson, *The Policing of Domestic Violence in Rural and Urban Areas: The Voices of Battered Women in Kentucky*. 6 Policing and Society 297 (1997); and Bureau of Justice Statistics Intimate Partner Violence in the United States 2007

⁴ Bureau of Justice Statistics Intimate Partner Violence in the United States 2007

⁵ For an introduction to why individuals remain in violent relationships, See Sarah M. Buel, *Fifty Obstacles to Leaving, a.k.a. Why Abuse Victims Stay*, 28 Colo. Law. 19, 19-26 (1999).

⁶ See Neil Websdale, *Rural Woman Battering and the Justice System: An Ethnography* (Sage Publications 1998)

⁷ Greg Berman & John Feinblatt, *Problem-Solving Courts: A Brief Primer*, 23 L. and Policy 125 (2001)

⁸ *Id.* at 125.

principles— coordination of victim services and judicial monitoring of offenders—in order to ensure victim safety and offender accountability.⁹ Although many problem-solving courts serve urban and suburban areas, it is feasible to transfer the principles of domestic violence courts to smaller jurisdictions.¹⁰ By combining these principles and research regarding rural intimate partner abuse, it is possible to better serve community members who interact with the court system. As a result, rural jurisdictions should incorporate aspects of problem-solving courts into the adjudication of cases involving intimate partner abuse.

II. Intimate Partner Abuse and Rural Communities

A. State Intervention in the Family

Historically, courts in any jurisdiction were reluctant to intervene in cases of intimate partner abuse.¹¹ This reluctance stemmed in part from the common-law doctrine of marital chastisement that allowed husbands to physically abuse their wives in order to maintain the woman's obedience.¹² The amount of state intervention in intimate partner abuse has changed gradually. By the late Nineteenth Century, the North Carolina Supreme Court noted that the doctrine of marital chastisement was no longer binding upon the courts.¹³ However, the Court further stated that as a matter of public policy, “[i]f no permanent injury has been inflicted, nor malice, cruelty nor dangerous violence shown by the husband, it is better to draw the curtain, shut out the public gaze, and leave the parties to forget and forgive.”¹⁴ This concept of intimate

⁹ Liberty Aldrich & Robyn Mazur, *Domestic Violence in Rural Communities: Applying Key Principles of Domestic Violence Courts in Smaller Jurisdictions*. Center for Court Innovation White Paper 4 (2005)

¹⁰ *Id.* at 2.

¹¹ Judith S. Kaye and Susan K. Knipps, *Judicial Responses to Domestic Violence: The Case For A Problem Solving Approach*, 27 W. State U. L. REV. 1 (1999-2000) page 2.

¹² See *Bradley v. State* 1 Miss. 156 (1824)

¹³ *State v. Oliver*, 70 N.C. 60, (1874)

¹⁴ *Id.* at 61.

partner violence as a private matter, to be left behind the curtains, has persisted in our jurisprudence.¹⁵

This perpetuation of the public/private dichotomy and the resultant limitations on state intervention in the family is a significant obstacle to addressing intimate partner violence.¹⁶ Studies on violence between intimates have consistently recognized the abuser's belief that he has the right to dominate and control those subordinate to him as one of the primary causes of the violence.¹⁷ This mentality combined with inequalities in both the home and marketplace often delay or prohibit women from leaving abusive relationships that provide indispensable financial assistance for themselves and their children.¹⁸ The message that intimate partner abuse is a private issue reinforces the abuser's belief that he has a right to dominate and control. In addition, the message of privacy often fosters a less than sympathetic response to victim's help-seeking behavior such as calling the police or obtaining a protective order.

These cultural messages regarding the public/private dichotomy are particularly problematic in rural areas. Rural communities frequently subscribe to patriarchal attitudes defined as "values, beliefs, and ideas that deem rural women to be subordinate to rural men."¹⁹ It is true that these attitudes exist in urban areas as well, but these beliefs can be more extreme in regions that have not been exposed to the ideas of women's rights.²⁰ As a practical matter this belief system can manifest itself in the failure of judges to take into account the complexities of

¹⁵ See *Patricia Ann S. v. James Daniel S.*, 435 S.E.2d 6 (dissent noting majority's disregard for intimate partner violence in the home)

¹⁶ Kristin A. Kelly, *Domestic Violence and the Politics of Privacy* 32 (Cornell University Press 2003)

¹⁷ M. P. Johnson. *Patriarchal Terrorism and Common Couple Violence: Two Forms of Violence Against Women*, 57 J. of Marriage and the Family 283-94 (1994)

¹⁸ Kristin A. Kelly, *Domestic Violence and the Politics of Privacy* at 35.

¹⁹ Neil Websdale, *Rural Woman Battering and the Justice System: An Ethnography* 93 (Sage Publications 1998)

²⁰ *Id.* at 93.

intimate partner abuse and the obstacles rural women face in extracting themselves from abusive relationships.²¹

It is important for judges to acknowledge the role that the public/private dichotomy plays in intimate partner abuse particularly since the law fails to take adequate account of the culturally constructed nature of the dichotomy.²² A rigid public/private division lacks empirical validity in that the private sphere influences the public sphere and the public sphere legally and socially regulates the private sphere.²³ For instance, Frances Olson argues that the state regulates the formation and dissolution of families.²⁴ And, particularly in rural communities, social expectations heavily influence women and men's roles in the private sphere.²⁵

The noninterventionist approach mandated by the philosophy of a public/private dichotomy has only “functioned to protect the privacy of men at the expense of the safety of women.”²⁶ This is an unacceptable tradeoff for the well being of our communities and as a result the balance must be shifted toward reasonable state intervention in the private sphere. Rural jurisdictions can accomplish this shift in the balance by taking note of the unique obstacles rural victims face and incorporating aspects of problem-solving courts into the adjudication of their case docket.

B. Unique Aspects of the Obstacles Faced by Rural Victims

1. Isolation and Transportation

²¹ *Id.* at 128.

²² *Id.* at 129.

²³ Kristin A. Kelly, *Domestic Violence and the Politics of Privacy* at 36.

²⁴ Frances Olsen, *The Family and the Market: A Study of Ideology and Legal Reform*, 96 *The Harvard Law Review* 837 (1983)

²⁵ Neil Websdale, *Rural Woman Battering and the Justice System: An Ethnography* 93 (Sage Publications 1998)

²⁶ Kristin A. Kelly, *Domestic Violence and the Politics of Privacy* at 34.

Intimate partner abuse creates and exacerbates the numerous obstacles to leaving a relationship.²⁷ Rural victims experience these obstacles in unique ways.²⁸ Isolation from friends, family, and other sources of support is a typical tactic of abusers. However, the results of this isolation are more extreme for rural victims. For example, rural homes tend to be farther apart than in more highly populated areas. This physical separation creates a situation where an abuser's actions are more easily hidden.²⁹ In an area where homes are in closer proximity, neighbors may hear shouting or items breaking and call the police. In rural areas this is much less likely. In addition, even if police are called by the victim or another individual it often takes a great deal of time for police to arrive due to the great distances between places in rural regions.³⁰ A police officer in rural Kentucky explains the issue thus,

“You’re on one end of Bush County and there’s no road like this [wide, well surfaced]...and you’re called to the opposite end of Clinton County. A domestic in progress. As hard as you can run, lights and siren, you’re looking at best at 40 minutes. That’s hard runnin’, that’s 100 plus most of the way.”³¹

Disturbingly, this delayed response can sometimes result in the victim sustaining further substantial injury.³²

2. Guns

For rural victims, another issue connected to the problem of isolation is transportation. The large distances between homes and population centers often delays or prevents victims from leaving their abusers. Due to low tax bases and low population densities in rural regions, public

²⁷ See Sarah M. Buel, *Fifty Obstacles to Leaving, a.k.a. Why Abuse Victims Stay*, 28 Colo. Law. 19, 19-26 (1999).

²⁸ See Nikki R. Van Hightower & Joe Gorton, *A Case Study of Community-Based Responses to Rural Woman Battering* 8 Violence Against Women 845, 846-47 (2002) and Neil Websdale, *Rural Woman Battering and the Justice System* at 161.

²⁹ Neil Websdale, *Rural Woman Battering and the Justice System: An Ethnography* 83 (Sage Publications 1998)

³⁰ *Id.*

³¹ *Id.* at 110.

³² *Id.* at 111.

transportation is not a possibility for rural governments.³³ Abusers will often closely monitor victim's use of family vehicles and some will even go as far as disabling the vehicle so that the victim cannot use it at all.³⁴ Brenda, a woman in rural Kentucky, relied on her vehicle to travel to work and to take her children to daycare.³⁵ So her ex-husband set it on fire, destroying the car and effectively forcing Brenda to remain at home.³⁶

Another characteristic of rural life that substantially affects rural victims of intimate partner violence is a tradition of gun ownership.³⁷ Gun ownership tends to be higher in rural areas.³⁸ This is significant for rural victims of intimate partner violence because a gun can be used not only to shoot people but also to threaten and physically abuse them.³⁹ For example, Karen's husband would use his gun to intimidate her. She explained, "He'd shoot something'. He'd say, 'that could be your head, you know.'...We would be out walkin' around bein' normal and he'd shoot a bottle or a can and say 'that could be your head.'"⁴⁰ June's husband, on the other hand would hit her alongside of the head with his pistol.⁴¹

This tradition of gun ownership and resultant use of guns by abusers is particularly salient for rural judges who adjudicate cases involving intimate partner abuse. Under a provision of the Violence Against Women Act it is a federal crime for a person subject to a protection order to possess a firearm or ammunition, or to ship or receive a firearm or ammunition in interstate or foreign commerce.⁴² This restriction applies only for the period of time that the protection order

³³ *Id.* at 162.

³⁴ Neil Websdale, *Rural Woman Battering and the Justice System: An Ethnography* 162 (Sage Publications 1998)

³⁵ *Id.* at 6.

³⁶ *Id.*

³⁷ *Id.* at 9.

³⁸ Philip J. Cook & Jens Ludwig, *Guns in America: Results of a Comprehensive National Survey on Firearms Ownership and Use* Table 4 & 4.1 (Police Foundation 1996)

³⁹ Neil Websdale, *Rural Woman Battering and the Justice System* at 9.

⁴⁰ *Id.* at 10.

⁴¹ *Id.*

⁴² 18 U.S.C. §922(g)(8)

is in place.⁴³ In addition, persons convicted in any court of a misdemeanor crime of domestic violence are also denied the right to purchase or possess firearms and ammunition.⁴⁴ Given the significance of guns to rural social life, judges should be particularly cognizant of an abuser's use of firearms as a tool of intimate partner abuse. It is also important for judges to give notice of the revocation of gun rights and to ensure that revocation occurs when the law requires it.

III. A Problem-Solving Court Model

A. Overview of the Concept of Problem-Solving Courts

1. Development and Use of Problem-Solving Courts

Traditionally, courts have been seen as neutral arbiters of disputes between private individuals or alternatively between the government and an individual regarding criminal matters.⁴⁵ More recently, some courts have been shifting their role in the adjudication process.⁴⁶ These problem-solving courts are entities created by judges, governments, and community partners in order to improve how the justice system deals with persistent social and legal problems.⁴⁷ Problem-solving courts take many forms and focus on a wide range of problems such as drug addiction, delinquency, and domestic violence.⁴⁸ Although these courts utilize a variety of methods and function to address different problems, their overall purpose is to improve the outcome of cases for victims, litigants, defendants, and communities.⁴⁹

⁴³ Darren Mitchell & Susan B. Carbon, *Firearms and Domestic Violence: A Primer for Judges*, 39 Ct. Rev.: J. Am. Judges Ass'n 35 (2002)

⁴⁴ 18 U.S.C. §922(g)(9)

⁴⁵ Bruce J. Winick, *Therapeutic Jurisprudence and Problem Solving Courts*, 30 Fordham Urban L. J. 1055, 1055 (2003)

⁴⁶ *Id.*

⁴⁷ Greg Berman & John Feinblatt, *Problem-Solving Courts: A Brief Primer*, 23 L. and Policy 125-126 (2001)

⁴⁸ *Id.*

⁴⁹ *Id.* at 125.

Experimentation with problem-solving courts began in Dade County, Florida in 1989 with the first “drug court.”⁵⁰ Rather than immediately incarcerate defendants, the court judicially supervises long-term addiction treatment.⁵¹ The purpose of this program is to curb criminal activity that is a result of an individual’s drug addiction.⁵² A defendant’s progress or failure in drug treatment is met with an established system of graduated rewards or sanctions.⁵³ Successful completion of treatment results in reduced charges or outright dismissal of the individual’s case.⁵⁴

With the development and proliferation of drug courts, other types of problem-solving courts began to appear. Community courts address a broad range of issues from prostitution to low-level drug possession.⁵⁵ A community court focuses on the individual brought before the court as well as the community where the person resides.⁵⁶ New York City established the Midtown Community Court in 1993.⁵⁷ Instead of drug treatment, offenders are sentenced to community clean-up efforts such as removing litter from local parks and painting over graffiti.⁵⁸ Another significant aspect of the Midtown Community Court is mandatory use of on-site social services such as health care and job training.⁵⁹ The assumption is that the opportunity to receive social services will help prevent some of the primary issues that lead to crime.⁶⁰ In addition, the

⁵⁰ *Id.* at 126.

⁵¹ Greg Berman & John Feinblatt, *Problem-Solving Courts: A Brief Primer*, 23 L. and Policy 126 (2001)

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at 127; and Greg Berman & Anne Gulick, *Just the (Unwieldy, Hard to Gather, But Nonetheless Essential) Facts, Ma’am: What We Know and Don’t Know About Problem-Solving Courts*, 30 Fordham Urban L. J. 1027, 1037 (2003)

⁵⁶ *Id.*

⁵⁷ Greg Berman & John Feinblatt, *Problem-Solving Courts: A Brief Primer*, 23 L. and Policy 127 (2001)

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

community itself is asked to participate in the criminal justice process through “advisory boards, community mediation, victim-offender impact panels, and town hall meetings.”⁶¹

2. Principles of the Problem-Solving Court Model

Although these two examples of problem-solving courts attempt to address different social and legal issues, they function with similar ideas as their core principles. These principles include enhanced information, community engagement, collaboration, individualized justice, accountability, and outcomes.⁶² The principle of enhanced information is a two-fold concept. Enhanced information includes improved training for judges and staff on issues such as intimate partner violence and drug addiction as well as better information about the specific litigants and victims.⁶³ This principle allows judges to make more nuanced decisions about aspects of the cases before them.⁶⁴ For example, improved training regarding intimate partner abuse will help judges understand why a victim may want to drop charges without immediately jumping to a conclusion about the veracity of the individual’s complaint.⁶⁵ Training would help the judge determine whether the abuser is intimidating the victim as an alternative explanation to the victim’s reluctance to go forward with prosecution. Specific information about a defendant in a drug court can help judges determine an appropriate individualized plan of action.⁶⁶

The second principle of problem-solving courts, community engagement, suggests that communities have an integral role to play in identifying and prioritizing local issues.⁶⁷ Citizen participation improves trust in the justice system and may increase community cooperation in the

⁶¹ *Id.*

⁶² See Robert V. Wolf, *Principles of Problem Solving Justice*, Center for Court Innovation White Paper (2007)

⁶³ *Id.* at 2.

⁶⁴ *Id.*

⁶⁵ *Id.* at 3.

⁶⁶ *Id.* at 3.

⁶⁷ *Id.* at 4.

pursuit of justice.⁶⁸ For instance, a victim of intimate partner violence who has had the opportunity to participate in improving the local court will probably be more likely to utilize its services.

Collaboration among groups and individuals is the third principle of the problem-solving court model. Judges can positively use their positions by persuading a diverse group of government agencies and community organizations to collaborate in developing ways to better address their communities needs.⁶⁹ Including diverse partners creates better solutions to complex problems. For instance, bringing batterer's intervention counselor's, victim's advocates, defense attorneys, and law enforcement officials to the table can encourage trust and provide new community specific solutions to intimate partner abuse.

The fourth core principle is individualized justice. A problem-solving court does not view a defendant as a docket number; rather a defendant should be seen as an individual and treated with dignity and respect.⁷⁰ Through the customization of punishment and connections with appropriate social services, a problem-solving court attempts to address a defendant's underlying problems.⁷¹ This method increases the probability that the defendant can contribute to society in a productive manner.⁷² As another aspect of the principle of individualized justice, domestic violence courts also aim to prevent re-victimization--"the sense that victims are abused twice: once by the batterer and again by the system."⁷³ In these courts, victims of intimate partner abuse are connected to services that provide safety planning, information about local shelters, and other forms of advocacy.⁷⁴

⁶⁸ *Id.*

⁶⁹ *Id.* at 5.

⁷⁰ *Id.* at 7.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

The fifth principle of accountability is closely linked with the idea of individualized justice. Creating appropriate punishments and connecting offenders with relevant social services will not be effective without court-based monitoring and clear consequences for non-compliance.⁷⁵ For instance, the Dade County, Florida drug court described above requires participants to regularly return to court and report on their progress.⁷⁶ “Problem-solving initiatives have found that clear communication and rapid response is essential for holding offenders accountable: non-compliance must be communicated as soon as it is discovered and the court must make it clear that sanctions (e.g., letters of apology, curfews, increased frequency of reporting, even short-term jail) will be issued in response.”⁷⁷

The final principle centers on the outcomes of a problem-solving court’s work rather than the focus on process common in traditional courts. Data collection and analysis is an important aspect of this principle.⁷⁸ However, the information gathered includes more than just the number of cases handled in a certain time period.⁷⁹ Demographics of successful participants are also collected.⁸⁰ In addition, information about the impact of the court on victims and the community is considered.⁸¹ For example, in order to monitor victim safety, domestic violence courts track compliance with orders of protection.⁸² This broader focus on outcomes aids problem-solving courts in fine-tuning their programs and ensuring their effectiveness.⁸³

B. Models of Urban Domestic Violence Problem-Solving Courts

A form of problem-solving court, domestic violence courts have been developed to give

⁷⁵ Robert V. Wolf, *Principles of Problem Solving Justice*, Center for Court Innovation White Paper 7 (2007)

⁷⁶ *Id.* at 8.

⁷⁷ *Id.*

⁷⁸ *Id.* at 8.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.* at 9.

⁸² *Id.*

⁸³ *Id.*

specific attention to cases involving intimate partner abuse. As with other types of problem-solving courts, domestic violence courts deviate from the traditional approach to case adjudication. Domestic violence courts represent an integration of community resources from civil and criminal proceedings to victim's advocacy and batterer's intervention programs. Many of the first domestic violence courts were in urban areas such as Quincy, Massachusetts and New York City.⁸⁴ Domestic violence courts typically operate with two objectives: coordination of victim services and offender accountability.

The Domestic Violence Court in Quincy, Massachusetts began development in 1976 and serves as a well-regarded model.⁸⁵ The court structure is based on cooperation among various groups including judges, attorneys, law enforcement, and social service agencies.⁸⁶ Law enforcement departments report intimate partner abuse incidents directly to the District Attorney's Office.⁸⁷ When the District Attorney's Office receives such reports it contacts victims and inform them of information sessions about restraining orders.⁸⁸ The victim is then aided throughout the process with assistance completing paperwork, explanations of the court system, and information on other resources available.⁸⁹ Victims have the opportunity to quickly obtain restraining orders during twice daily court sessions.⁹⁰ Abusers are subject to aggressive prosecution, close monitoring of their behavior, and enhanced enforcement strategies.⁹¹ If under the conditions of probation, an abuser must attend batter's intervention programs or drug and

⁸⁴ Betsy Tsai, Note: *The Trend Toward Specialized Domestic Violence Courts: Improvements on an Effective Innovation*, 68 Fordham L. Rev. 1285, 1297 (2000)

⁸⁵ *Id.*

⁸⁶ *Id.* at 1298.

⁸⁷ *Id.* at 1299.

⁸⁸ *Id.*

⁸⁹ *Id.* at 1298.

⁹⁰ *Id.*

⁹¹ *Id.*

alcohol treatment programs the individual's actual attendance is closely monitored.⁹² Numerous absences from these mandated sessions result in notification to both the victim and law enforcement.⁹³

Much more recently, New York City established a domestic violence program due to an increase in intimate partner abuse cases.⁹⁴ Similar to the court in Quincy, New York's program relies on a multidisciplinary approach with specialized domestic violence courtrooms as its foundation.⁹⁵ All staff members are specifically trained in the issue of intimate partner abuse.⁹⁶ In addition to the judge and prosecution teams, a Resource Coordinator, a Victim Advocate, and a Defendant Monitor work in the courtroom.⁹⁷ The Victim Advocate supports and assists the victim by providing information about the court system, orders of protection, and any appropriate social services available.⁹⁸ In addition, this staff member is a point of contact for the victim to report any violations of protective orders.⁹⁹ As the title suggests, the Defendant Monitor manages information regarding defendant compliance with court orders and attendance at counseling sessions.¹⁰⁰ The Resource Coordinator combines the data collected by the Victim Advocate and Defendant Monitor and provides that information to the judge.¹⁰¹ In this configuration, the court has a greater involvement in all aspects of a case whereas the Quincy model delegates some of the tasks to other agencies.¹⁰²

⁹² *Id.* at 1300.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 1300-1301.

¹⁰¹ *Id.* at 1301.

¹⁰² *Id.* at 1302.

As a final example of a domestic violence court model, the Dade County Domestic Violence Court (DCDVC) has two features particularly worth noting. The first is that the focus is on treatment of abusers as opposed to punishment of abusers.¹⁰³ Under this model, defendants must attend and complete programs such as batterer intervention programs, substance abuse treatment, and mental health counseling.¹⁰⁴ As a part of sanctioning the abuser, the DCDVC requires monitoring of program attendance through defendant progress reports at court appearances.¹⁰⁵ The second unique aspect of DCDVC is that it specifically addresses the psychological well being of children who are exposed to intimate partner abuse.¹⁰⁶ The DCDVC requires children who are exposed to such abuse to attend counseling.¹⁰⁷

IV. The Problem-Solving Court Model and Rural Jurisdictions

A. Translating Problem-Solving Court Principles for Use in Rural Jurisdictions

Problem-solving courts, generally, and domestic violence courts, specifically, are based on principles that can be used to address social and legal issues whether they occur in urban or rural areas. Rural jurisdictions are generally characterized by low population density, a paucity of funding, and limited access to victim services.¹⁰⁸ In reality, these jurisdictions probably have minimal intimate partner abuse caseloads and budgets too small to justify a specialized court.¹⁰⁹ However, this does not validate a failure to implement practices that most effectively help victims and hold offenders accountable.¹¹⁰ In fact, the difficulties rural victims of intimate partner abuse face make it more important that rural courts implement appropriate processes.

¹⁰³ *Id.* at 1303.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 1304.

¹⁰⁷ *Id.*

¹⁰⁸ Cissner, Amanda B., *Bringing Domestic Violence Best Practices to New York's Town and Village Courts*, Report to Office on Violence Against Women, U.S. Department of Justice 1 (2007)

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

A project in upstate New York illustrates the ways that rural jurisdictions can begin, even on a small scale, to implement the best practices of domestic violence courts. Beginning in 2005, a STOP grant from the Office on Violence Against Women was obtained to provide justices in rural Tompkins County, New York with training on how to identify and process the intimate partner abuse case on their dockets.¹¹¹ “Tompkins County is a rural county located in the west central part of New York State, at the base of the Finger Lakes.”¹¹² Town and village courts are the first level of trial court in New York’s Unified Court System.¹¹³ Although nineteen justices from the town and village courts of Tompkins County were contacted to participate in the project, only six actively engaged in the process.¹¹⁴

Each of the justices were asked to report on four issues: program mandates, protective orders, compliance monitoring, and victim services. The justices reported mandating attendance at the local batterer’s intervention program or an alcohol, substance abuse, mental health, or anger management treatment program.¹¹⁵ Further discussion revealed misinformation regarding the availability of and requirements for entry into the batterer’s intervention program.¹¹⁶ Here is an opportunity to improve court outcomes by simply gathering accurate information about the batterer’s intervention program. The justices also reported the frequent use of protection orders in intimate partner abuse cases but they were unlikely to check the statewide registry of protective orders that gives information about any other protection orders against a defendant. Again, here is a simple and inexpensive way to implement the best practices used in urban problem-solving courts and make better-informed decisions.

¹¹¹ *Id.*

¹¹² *Id.* at 3.

¹¹³ *Id.* at 2.

¹¹⁴ *Id.* at 4.

¹¹⁵ *Id.* at 6.

¹¹⁶ *Id.*

Some of the justices reported requiring defendants to return to court for compliance monitoring, but others reported relying on probation to monitor defendant compliance.¹¹⁷ In order to ensure abuser accountability, justices could coordinate with the probation department to determine a method of more closely monitoring defendants that would be more efficient and reliable. Although some justices reported keeping information on local victim services available in their courtroom, collaboration with the local victim services agency was low.¹¹⁸ Justices and the victim services agency could create a process for providing victims with information about services and lending emotional support in the courtroom during proceedings.

B. Short Term Recommendations

Rural jurisdictions can immediately help improve case outcomes for victims of intimate partner abuse by incorporating some of the principles of problem-solving courts. As noted above, these principles include enhanced information, community engagement, collaboration, individualized justice, accountability, and outcomes.

1. Enhanced Information

First and arguably most important is to engage court personnel and judges in training on intimate partner abuse. Training on intimate partner abuse is available through many state coalitions against domestic violence.¹¹⁹ Provision of this training is absolutely necessary to fair case outcomes. Intimate partner abuse can affect the presentation of a case; if a judge is unaware of these dynamics it can impede her or his ability to adequately hold a defendant accountable.¹²⁰ In a study of a rural Texas county, it was found that victim blaming was frequently expressed

¹¹⁷ *Id.* at 8.

¹¹⁸ *Id.* at 9.

¹¹⁹ See for example Texas Council on Family Violence at www.tcfv.org/tcfv-content/category/training/

¹²⁰ Liberty Aldrich & Robyn Mazur, *Domestic Violence in Rural Communities: Applying Key Principles of Domestic Violence Courts in Smaller Jurisdictions*. Center for Court Innovation White Paper 6 (2005)

regarding a victim's lifestyle, and failure to leave the abusive relationship. A judge perfectly illustrates this attitude:

“The violence is going to go on. One I have done a couple of protective orders on, they get drunk and every time they get drunk, she calls the police and he has hit or slapped her or something. And, they arrest him, put him in jail, I do the order, they sober up, and he goes right back. She never leaves the house. She don't try to leave the house. She wants him back. In a situation like that, I think we are wasting our time.”¹²¹

Understanding the dynamics of intimate partner abuse can also better ensure victim safety. For example, training would have aided the judge in Melanie's case in making a more appropriate decision. A judge had issued a protective order against her ex-husband, but then issued an order granting visitation rights regarding their child.¹²² Melanie explained, “I still have a protective order, but the judge issued him visitation rights and I don't know how that works around the protective order, but some how it did.”¹²³ These two contradictory orders do not take the abuser's behavior seriously and can further endanger Melanie.

It is also necessary for other participants in the court system to be included in training on intimate partner abuse. The urban models in Quincy, New York City, and Dade County, described above, all incorporated court personnel in the dissemination of victim services. Staff members who are able to sensitively explain court procedures to victims are essential. Additionally, members of the prosecution should be educated on intimate partner abuse. In the Texas study, the district attorney had immense influence on the severity of the sanctions imposed on abusers.¹²⁴ Given the level of their influence, it would be highly beneficial for the person in that position to be educated on the complexities of intimate partner abuse.

¹²¹ Nikki R. Van Hightower & Joe Gorton, *A Case Study of Community-Based Responses to Rural Woman Battering* 8 *Violence Against Women* 845, 860-61 (2002)

¹²² *Id.* at 854.

¹²³ *Id.*

¹²⁴ *Id.* at 862.

A separate aspect of the enhanced information principle requires an understanding of the nuances of intimate partner abuse in your jurisdiction. The first step in addressing a problem is determining its scope and form. With that in mind, it is highly beneficial to conduct a caseload analysis. A caseload analysis should determine the number and kind of cases involving intimate partner abuse that enter your docket during a six-month period.¹²⁵ If possible, it would also be helpful to determine the demographics of the individuals involved in the intimate partner abuse cases in your court. For example, if your community includes speakers of multiple languages it can be helpful to provide written materials in those languages.

2. Individualized Justice

In domestic violence courts, the principle of individualized justice attempts to prevent re-victimization of those who are survivors of intimate partner abuse. In order for the court to appear responsive to victim's needs, it is essential that the court address victim safety and security.¹²⁶ One possible way to accomplish this is to provide safe spaces within courthouses.¹²⁷ Creating a safe space can be as simple as utilizing an empty jury room or conference room. The purpose of this space is to provide separate waiting areas in order to minimize contact between victims and offenders.¹²⁸ Including materials and information from the local domestic violence organization regarding safety planning and other topics in the safe space can be a helpful addition.¹²⁹ The best scenario, however, would be to have a victim's advocate from the local domestic violence organization available to meet with victims in the safe space.¹³⁰

Another method of ensuring that the courts do not facilitate re-victimization is to schedule

¹²⁵ See *Rural Innovation: A Best Practice Checklist for Handling Domestic Violence Cases in Smaller Jurisdictions*. Center for Court Innovation Fact Sheet

¹²⁶ Liberty Aldrich & Robyn Mazur, *Domestic Violence in Rural Communities: Applying Key Principles of Domestic Violence Courts in Smaller Jurisdictions*. Center for Court Innovation White Paper 5 (2005)

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

cases promptly. If long time periods lapse between the reported intimate partner abuse and the scheduling of the case, the risks to the victim/complaining witness can be exacerbated.¹³¹ Understandably this may be a challenge in rural jurisdictions with infrequent court sessions, but the longer the victim must wait, the longer the victim is in danger.¹³² When legal help is delayed sufficiently the defendant can often coerce the victim into ceasing to cooperate with the prosecution.¹³³

3. Community Engagement

A final short term recommendation for rural jurisdictions is to identify and recruit a variety of stakeholders in the community to begin planning how to more fully implement problem-solving justice into the adjudication of intimate partner abuse cases. This planning team should include interested judges, clerks, prosecutors, defense bar, victim advocates, and law enforcement and probation officers. The purpose of the team will be to discuss the development of protocols for tracking, processing, and monitoring intimate partner abuse cases in the court.¹³⁴ The team will develop these protocols through discussion of relevant legal issues, caseload analysis data, gaps in services and communication among agencies.¹³⁵ In addition a plan for coordinating responsibilities and methods of reporting between project constituents should be determined.¹³⁶

C. Long Term Recommendations

Once a planning team has been established the long term development of appropriate methods for addressing intimate partner abuse cases in your jurisdiction can begin. First the

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Rural Innovation: A Best Practice Checklist for Handling Domestic Violence Cases in Smaller Jurisdictions.* Center for Court Innovation Fact Sheet

¹³⁵ *Id.*

¹³⁶ *Id.*

planning team should outline of how intimate partner abuse cases will be handled and how services will be delivered.¹³⁷ For example, your jurisdiction could use the New York City model and utilize a Resource Coordinator, a Victim Advocate, and a Defendant Monitor. These roles may be only aspects of an individual's job duties given the reality of lower caseloads and budgets. An individual that maintains the judge's docket could also serve as the Resource Coordinator. The rural Resource Coordinator could gather necessary information from Victim Advocates and Defendant Monitors and provide appropriate reporting when necessary. The Victim Advocate may be employed by the local domestic violence organization but serves as a source of information for the court employed Resource Coordinator. Similarly, the Defendant Monitor may in fact be a probation officer with special training in intimate partner abuse. When determining an appropriate model for your jurisdiction, keep in mind the objectives of a domestic violence court: coordination with victim services to ensure victim safety and offender accountability. Determine the best way to provide victims with "frontloaded" and immediate access to services.¹³⁸ Also take into consideration ways of keeping victims well informed as this can have a enormous impact on victim safety. For example, the district attorney in one Texas county had not provided Julie with any information about the disposition of domestic violence charges against her alcoholic husband.¹³⁹ His unexpected release placed her in danger:

"I didn't even know he went to court that day. They didn't call me and tell me. They didn't tell me nothing. It wasn't—I don't think it was done right. I was at work and he calls me and tells me that he's gettin' out of jail—come pick him up. And it was like, well, when are you goin' to court—well, they took me to court this mornin'—and I wasn't told he was going to court."¹⁴⁰

¹³⁷ *Id.*

¹³⁸ Liberty Aldrich & Robyn Mazur, *Domestic Violence in Rural Communities: Applying Key Principles of Domestic Violence Courts in Smaller Jurisdictions*. Center for Court Innovation White Paper 4-5 (2005)

¹³⁹ Nikki R. Van Hightower & Joe Gorton, *A Case Study of Community-Based Responses to Rural Woman Battering* 8 *Violence Against Women* 845, 854 (2002)

¹⁴⁰ *Id.*

With a well-established protocol regarding intimate partner abuse cases situations like Julie's can be avoided.

The next step would be to develop a service plan which outlines the services required by litigants including victim advocacy, batterers' intervention programs, substance abuse programs.¹⁴¹ A group should be assigned to determine the existence and quality of local services. Some of this information may be readily available from planning team members. However, given the limited resources available in rural jurisdictions, it may be necessary to gather information about and utilize quality services in neighboring communities. Once programs have been identified, the next step is to secure commitments from the organizations to provide services to litigants in your court.¹⁴² Due to concerns for victim safety, it is essential to develop processes for those providers to regularly update court staff on offender compliance.

In combination with the process for service providers, a plan for judicial monitoring of defendants and consequences of non-compliance should be established. The ideal policy would require frequent hearings for defendants to report on their progress in treatment programs and their lack of contact with the victim.¹⁴³ If frequent hearings are not possible, courts have explored other options such as curfews, phone check-ins, and ankle monitors.¹⁴⁴ It may be helpful to create a separate compliance docket if appropriate for the monitoring method chosen.¹⁴⁵

The purpose of these recommendations is not to give an exhaustive description of steps to take, but rather to give courts a starting point for discussion within their communities. On a final

¹⁴¹ *Rural Innovation: A Best Practice Checklist for Handling Domestic Violence Cases in Smaller Jurisdictions*. Center for Court Innovation Fact Sheet

¹⁴² *Id.*

¹⁴³ Liberty Aldrich & Robyn Mazur, *Domestic Violence in Rural Communities: Applying Key Principles of Domestic Violence Courts in Smaller Jurisdictions*. Center for Court Innovation White Paper 6 (2005)

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

note, a realistic and necessary concern is always how to fund new initiatives and how to keep them viable. When Congress authorized the Violence Against Women Act it included provisions for funding programs in rural areas. Grants are administered by the United States Department of Justice's Office on Violence Against Women. Local governments as well as nonprofits and other organizations can access these grants.¹⁴⁶

V. Conclusion

Rural areas with their farmhouses, wide spaces and strong sense of community are not immune to the problem of intimate partner abuse. In fact rural victims face unique obstacles to ending abusive relationships that range from complex issues such as the concept of a public/private dichotomy to basic concerns such as extreme isolation.

Problem-solving courts in areas such as Quincy, Massachusetts, New York City, and Dade County offer possible models for rural jurisdictions struggling to address intimate partner abuse cases. These domestic violence courts rely on two basic principles— coordination of victim services and judicial monitoring of offenders—in order to ensure victim safety and offender accountability. As explored it is feasible to transfer the principles of domestic violence courts to smaller jurisdictions whether by designating an empty jury room as a safe space or creating a full scale plan for intimate partner abuse cases. By combining the principles of problem-solving courts and research regarding rural intimate partner abuse, it is possible to better serve community members who interact with the court system. As a result, rural jurisdictions should incorporate aspects of problem-solving courts into the adjudication of cases involving intimate partner abuse.

¹⁴⁶ See http://www.ovw.usdoj.gov/rural_grant_desc.htm

