

# Why Juvenile Courts Should Address Family Violence: Promising Practices to Improve Intervention Outcomes

BY SARAH M. BUEL, J.D.

## A B S T R A C T

The prevalence of domestic violence in juvenile court cases justifies modifying our interventions to reflect this unfortunate reality. This article focuses primarily on juvenile victimization of parents and the model programs emerging in juvenile courts to address it. Part I examines family violence's prevalence in the juvenile court caseloads, despite its lack of consideration in most dispositions. Part II begins with a comparative analysis of the drug court trend and discusses the trend's applicability for specialized family violence applications in the Juvenile Court. The King County (Wash.) Juvenile Court's Step-Up Program is introduced, which directly addresses family violence with intervention programs for youth perpetrators and abused parents, followed by the Santa Clara County (Calif.) Juvenile Court's Family Violence program, shown as a model worthy of replication. Part III details the process by which the Travis County (Texas) Juvenile Court is implementing a program similar to these models. Part IV concludes that juvenile courts must address family violence as an overt or underlying issue in many cases and must identify and address the danger to our troubled youths, whether offender or victim. I argue that the domestic violence community's treatment expertise must inform our juvenile courts' interventions with violent, often insular, families. In Travis County, we are committed to learning as much as possible about youth resilience—to identify and treat battered and battering teens to prevent the inter-generational cycle from repeating itself while making our homes, communities, and schools safe.

boyfriends, but practical guidance for victims of physical and psychological abuse is sorely lacking. Similarly, most juvenile justice systems have few resources for intimate partners or family members battered by teens. Scant attention is paid to the issue, partly because parents, siblings, and partners are reluctant to involve aggressors in the juvenile court system, which may sentence them to adult prison or secure youth facilities. For families of color, dramatically disproportionate confinement of their children only serves to alienate them further from the justice system. In 1995,

**M**Media attention consistently focuses on youth violence in schools, but we rarely see coverage regarding the widespread problem of teen perpetrated domestic violence.<sup>1</sup> Many U.S. schools offer safety planning information to teachers seeking protection from students, and the National Education Association provides teachers with a free life insurance policy, valued at \$150,000.<sup>2</sup> There also exists a dearth of assistance for parents victimized by their own children, though battered women often report that this victimization accompanies abuse from an adult partner.<sup>3</sup> Occasionally, afternoon talk shows present desperate parents confronting abusive adolescents or tearful teens lamenting their inability to leave their violent

youth of color constituted 32% of the juvenile population nationwide, but 68% of youth in secure detention.<sup>4</sup>

**Sarah M. Buel, J.D.**, *cum laude* Harvard Law School is a Lecturer in Law, University of Texas School of Law, former domestic violence, child abuse and juvenile prosecutor, and advocate since 1977.

### I. The Problem

Domestic violence presents three forms in juvenile court cases. The first form is not readily apparent because it is usually the underlying cause of the youth's delinquent behavior rather than the presenting offense. The youth is charged with what appears to be an unrelated offense, for example theft or drug possession; but directed inquiry reveals that the juvenile, his mother, and/or siblings are being abused by another adult or each other. In the second form, the youth batters a parent, caretaker, or sibling, while in the third form, he abuses an intimate partner, usually in a dating relationship.<sup>5</sup> Often the domestic violence goes undetected because most juvenile courts do not screen for it; and if the court does find it, staff do not know of specialized resources to which they can refer the parties. Children who grow up in violent families are more likely to abuse others or to be victims of abuse, as both adolescents and adults.<sup>6</sup> Those who do not replicate abuse generally have had at least one adult protecting them. Children need not be directly beaten to take on violent and delinquent behavior: it is enough for them to witness one adult abusing another.

The Massachusetts Department of Youth Services found that children growing up in violent homes had a six times higher likelihood of attempting suicide, a 24% greater chance of committing sexual assault crimes, a 74% increased incidence of committing crimes against the person, and a 50% higher chance of abusing drugs and/or alcohol.<sup>7</sup> Another study comparing delinquent youths with non-offending youths found a history of family abuse the primary distinction between the two.<sup>8</sup> Such youths are in pain and often self-medicate when adult society disregards the violence within their families. Arguing that juveniles who assault their parents may not be entirely to blame, Director of the Travis County (Texas) Juvenile Court Services, Brian Snyder, suggests the abused parent may have been the perpetrator of violence against the child or another family member in the past.<sup>9</sup> Prior victimization does not justify a juvenile's violence, but it helps explain why some youths adopt an abusive mode of conflict resolution.

Additionally, 20% of female high school students report being sexually or physically abused by a dating partner; the actual number is likely higher because embarrassment often deters reporting. Such violence

adversely affects the safety and health of teenage girls because it strongly correlates with pregnancy, substance abuse, harmful weight control, suicide attempts, and dangerous sexual behavior. The Massachusetts Youth Risk Behavior Survey (YRBS) was the first (in 1997 and again in 1999) to ask teens whether they had "ever been hurt physically or sexually by a date or someone they were going out with. This would include being shoved, slapped, hit, or forced into any sexual activity." Of the 4,163 surveyed, approximately 6% reported both physical and sexual victimization. Researchers admit that because of racial and ethnic differences in reporting dating violence, their findings are inconclusive.<sup>10</sup> Victimized teens are more likely to use alcohol, tobacco, and cocaine, and are less likely to use condoms when engaging in sexual activity. Such behaviors increase the likelihood that victims of teen dating violence will contract sexually transmitted diseases and/or become pregnant.<sup>11</sup>

Teen pregnancy increases the likelihood not only of high school non-completion and concomitant poverty, but also of prenatal violence. In one study, over 16% of teens reported prenatal abuse by the babies' fathers, with 9.4% describing their boyfriends' inflicting severe violence on them, including kicking and stabbing. Fifty-six percent of the abused, pregnant teens indicated abdominal trauma, and were far more likely to deliver pre-term and abuse alcohol.<sup>12</sup> Teen dating violence can be an early predictor of victim and offender patterns which may continue without effective, early intervention programs. One in three teenagers will suffer physical abuse in a dating relationship,<sup>13</sup> but most schools and courts do not address the issue at all. Barrie Levy, a psychotherapist who has written three books on teen dating violence, cautions that signs of abuse may not be easy to detect. Some warning signs include controlling behavior, extreme jealousy, withdrawal from friends, and hyper-vigilance toward obeying the partner's rules. Levy suggests that each partner should be approached separately if abuse is suspected, though neither partner may be willing to acknowledge the problem. Rather than try to stop all contact, Levy cautions adults to focus on safety. For example, a teacher, probation officer, judge, or advocate might say, "I understand that you love him, but I can see you're being hurt." A critical next step is to provide information and referrals for where the teen can get help.<sup>14</sup>

School-based dating violence intervention programs should be implemented in collaboration with presentations by domestic violence advocates. Austin's Safeplace shelter began a Teen Dating Violence Project (TDVP) in 1988, offering 24-week therapeutic peer support groups in public schools—first just for victims, but expanding to perpetrators in 1991. Barri Rosenbluth, director of the Safeplace School-Based Intervention Programs, uses the *Expect Respect* curriculum, which teaches the warning signs of battering behavior, including excessive use of power and control.<sup>15</sup> Rosenbluth explains that early on, she surveyed a number of teen victims who reported on-going, increasingly violent behavior by their partners, but an unwillingness to break off the relationships. Rosenbluth then shifted her focus from warning girls about abusive behaviors to teaching them how to set limits, protect themselves, and expect respect and equality in their relationships.<sup>16</sup>

## II. Promising Practices to Address the Problem

Routine screening, suitable referrals, and judicial oversight, for both victims and offenders, should become institutionalized practices within our juvenile courts. The Journal of the American Medical Association and numerous researchers suggest that health care professionals should address dating violence among their patients, but juvenile courts must also address this violence when teens appear before them. Opportunities for effective interventions are great, because juvenile courts can fashion case dispositions including an appropriate balance of rehabilitation and punishment for the offender, while affording victims access to safety and counseling.

### A. Lessons From Drug Courts Applied to Family Violence Juvenile Courts<sup>17</sup>

Several distinctions exist between drug courts and Family Violence Juvenile Courts, but closer examination is essential to engender replication of successful models. A National Institute of Justice study of the Dade County (Fla.) Drug Court reported a 33% decrease in recidivism for drug court graduates than for chemically dependent defendants in the control group. Similar results exist in other drug courts, with reports that 50% to 65% of graduates cease substance abuse. With well

over 200 bona fide drug courts<sup>18</sup> operating across the country as of 1997, and a substantial body of literature evaluating their efficacy, 10 key components exist for adaptation in Family Violence Juvenile Courts.

**Key Component #1:** *Drug courts integrate substance abuse treatment services into case processing.*<sup>19</sup> Because a Family Violence Juvenile Court seeks to end youth-perpetrated violence and related criminal behavior, teen battering intervention services must be used in all cases involving abusive youths. In substance abuse treatment, youths ordered to participate have comparable success rates to those who volunteer.<sup>20</sup> Likewise, batterer treatment providers have long reported that most abusers have lower recidivism rates when coerced into treatment.<sup>21</sup> Thus, professionals must insist that affected youths successfully complete batterer intervention programs.

**Key Component #2:** *The prosecutor and defense attorney adopt a non-adversarial stance with the goal of protecting parties' due process rights while advancing public safety.* Defense attorneys have long resisted attempts at rehabilitation for their clients.<sup>22</sup> Prosecutors often feel so overwhelmed by high caseloads that they are willing to make plea agreements lacking treatment mandates. In the drug court model on which the Family Violence Juvenile Court is predicated, prosecutor and defense counsel collaborate. The team's goal should be the juvenile's ceasing all violence with the pending court case a secondary concern. Experienced judges, prosecutors, defense attorneys, and probation officers are crucial to ensuring consistency and stability in the Family Violence Juvenile Court.

**Key Component #3:** *Early identification of substance abusers enables the drug court to quickly immerse them in treatment programs.* Making denial more difficult, arrest brings the violent offense to light and creates a significant opportunity for expeditious treatment.<sup>23</sup> Family Violence Juvenile Courts would similarly find it beneficial to expedite the time between arrest and case disposition. The youth must be quickly notified of all program requirements and the benefits of successful completion, and he must immediately enroll in the mandated programs.

**Key Component #4:** *Drug courts enable defendants to gain access to a range of chemical dependency and other rehabilitation services.*<sup>24</sup> The causes of juvenile family violence are complex and varied, shaped by the offender's cumulative cultural and social experiences. A court's interventions will be effective only if mental health, substance abuse, educational, and other social services resources are rigorously utilized. Co-occurring problems may include depression, sexually-transmitted diseases, homelessness, learning disabilities, domestic violence, and sexual abuse. If the community lacks appropriate treatment options, the Family Violence Juvenile Court can serve as the impetus for establishing needed programs. Services must be accountable to the court and the participants.<sup>25</sup>

**Key Component #5:** *Frequent drug and alcohol testing monitors the user's abstinence and serves as an accurate, objective, and efficient means to establish accountability.* Chemical abuse testing should be random, with urine or hair samples collected in the presence of staff and the judge immediately notified of any failures.<sup>26</sup> Family Violence Juvenile Courts should have the youth appear regularly before the judge to report on his progress, but staff should also maintain contact with victims to check the accuracy of the defendant's statements. Both offenders and victims should be made aware of possible behavior changes as the offender goes through intervention. For example, batterer treatment experts explain that batterers frequently stop physical violence in the aftermath of arrest, but may intensify psychological abuse. At this juncture, victim support groups are helpful in teaching abused parents and partners how to set limits, what behavior should be reported to the court, and ongoing safety planning. Because juveniles treated for chemical dependency may seek alternative substances when deprived of their drug of choice,<sup>27</sup> safety planning must include education regarding the indicia and patterns of new, unlawful behavior.

**Key Component #6:** *Drug court professionals closely coordinate their responses to litigants' level of compliance.* A continuum of responses is necessary to address both incremental successes and likely relapses.<sup>28</sup> Particularly with juvenile offenders, the court should

reward progress based on a realistic evaluation of the offender's abilities. The court should acknowledge the youth's punctual arrival at court and treatment programs, active engagement in the services, school attendance, cessation of the violence, and other positive behavioral changes. Depending on the degree of compliance, the judge could offer praise and encouragement, decrease supervision, reduce the number of court appearances, eliminate or decrease fines or fees, shorten probation duration, suspend or decrease time in detention, and ultimately dispose of the case. Noncompliance should result in punitive actions, perhaps the reverse of the suggestions listed above.<sup>29</sup>

**Key Component #7:** *Continuing judicial involvement with each defendant is critical.* As the court team's leader, the judge should be knowledgeable about treatment options and prepared to insist upon their compliance. Just as effective drug courts require judges to reach beyond traditional parameters of independent practice,<sup>30</sup> so too must those presiding over Family Violence Juvenile Courts. Judges taking an active, supervisory role with abusive youths will more often witness violence cessation than those wed to the status quo.

**Key Component #8:** *To gauge the program's effectiveness, careful monitoring and evaluation are integral to daily court functioning.* Concretely formulated goals will assist in achieving program accountability. Constructive evaluation involves the court's ongoing collection and analysis of program data to measure efficacy. Such studies can then inform the adjusting of court procedures, modify therapeutic interventions,<sup>31</sup> and suggest other necessary changes. Family Violence Juvenile Courts are constantly gaining knowledge regarding the similarities and distinctions between adult and youth offenders, victims, and treatment providers. For example, program monitoring reveals that parents rarely participate fully in the court-ordered interventions for the youth, though the judge implores them to do so. Instead of simply lamenting the lack of parental involvement, our new approach is to research how other jurisdictions have overcome this challenge and commit to implementing the changes to bring about that result. Thus, flexibility in implementation, program monitoring, and evaluation are essential to achieving victim safety and offender accountability.

**Key Component #9:** *Ongoing interdisciplinary training and education encourage effectual planning and implementation of drug court operations.*<sup>32</sup> All court personnel should be mandated to attend informational sessions to enhance their understanding of program goals and should be exposed to cutting-edge practices to improve the programs. It is essential to select motivational trainers who can present realistic, practical recommendations for program enhancement; speakers should be also culturally competent and reflect the rich diversity of the community.

**Key Component #10:** *The drug court's efficacy is augmented by partnerships with community-based programs, public entities, and every facet of the court.* Functioning as a conduit of information to the public and related agencies, the court should take a leadership role in facilitating such linkages.<sup>33</sup> Without such partnerships, the court will find its mission overwhelming—to the detriment of affected juveniles and their families. From faith community leaders, nurses, and teachers to sports coaches, police officers, and counselors, many stakeholders can be instrumental in helping violent youth, if courts routinely involve them in intervention plans.

Adapting the adult drug court model to include children, Santa Clara County (Calif.) Judge Leonard Edwards established a Juvenile Dependency Drug Treatment Court. Judge Edwards was determined to improve the assessment process, increase the number of in-patient beds for addicted mothers and their children, and designate a weekly court session for this population. Judge Edwards believes parents (95% of whom are mothers) are more motivated to cease substance abuse when the court clearly makes reunification with their children contingent upon their staying clean. An innovative component of the program developed when two graduates were hired to be “Mentor Moms” to clients undergoing treatment.<sup>34</sup>

The importance of such models should not be underestimated; where the substance abusing parent receives immediate, intensive treatment under the scrutiny of a strict but caring court, affected youths are far less likely to become involved in unlawful activities. Reno’s Judge Charles McGee found that pairing foster

grandparents with drug court families creates a model of a healthy parenting style to which many clients have never been exposed. Additionally, Judge McGee stresses that because courts should end their intervention as soon as is feasible, foster grandparents can maintain ongoing contact on a daily or weekly basis. Such guidance greatly helps clients maintain sobriety, indicating that courts must be open-minded about integrating creative components benefiting all involved.<sup>35</sup>

## **B. King County, Washington**

In King County, Wash., the Department of Judicial Administration and the Prosecuting Attorney’s Office established the Step-Up Program in their juvenile court,<sup>36</sup> a domestic violence and sexual assault unit, prioritizing the protection of victims while offering specific services to hold juvenile perpetrators accountable. As part of accomplishing the latter, Step-Up developed an intervention program targeting 13- to 17-year-olds who batter their parents or dating partners. Separately, Step-Up offers a support group for abused parents. Unlike youths who are court ordered to attend the Step-Up batterer’s intervention program, parents’ participation in their support group is voluntary.<sup>37</sup>

Understanding the inefficacy of anger management programs in dealing with domestic violence perpetrators, the Step-Up Program models its juvenile batterer’s intervention program after the Duluth (Minn.) Domestic Abuse Intervention Project (DAIP) for adult male perpetrators. The DAIP’s primary objective is victim safety, achieved partly by insisting that batterers acknowledge their choice to be abusive, and then by teaching them healthy relationship interaction.<sup>38</sup> The dating violence course teaches the youth to consider the victim as his equal, and the family violence curriculum teaches that his parent is in charge and must be respected.<sup>39</sup>

Employing a Cognitive Behavioral Treatment Model, the Step-Up Program begins from the standpoint that the youth’s sense of entitlement to abuse is predictive of abusive behavior.<sup>40</sup> Before admission to the Step-Up Program, a comprehensive intake session occurs with parent and child. To increase the likelihood of truthful parental and youth disclosure, as well as safety for the victimized party, each person is interviewed separately. The interviewer screens for family violence, medical or substance abuse, mental health issues, and school prob-

lems. Separating the mothers and fathers is necessary because 65% of juveniles reported witnessing domestic violence between their parents, with 88% identifying the father as the abuser.<sup>41</sup>

The Step-Up group facilitators list at least four primary goals they seek to achieve during the six-month program, largely in a group format.<sup>42</sup> First, the juveniles must understand what behavior constitutes abuse. Those who have witnessed violence as the preferred method of conflict resolution within their homes may have no concept of non-abusive alternatives. Second, facilitators work with each youth batterer to identify rationales used to excuse the violence. Third, the group members discuss how to isolate the situations that trigger their violence; and fourth, they discuss non-violent alternatives. Finally, the Step-Up Program helps abusive youths learn to empathize with their victims.<sup>43</sup>

In addition to mandatory attendance at every week's session, the youth must complete six requirements in furtherance of these goals. Participants must maintain a "Time-Out Log" to document what they were thinking and actions taken when tempted to use violence against a family member or dating partner. This exercise helps the youth recognize when he *chooses* violence over peaceful resolution. The teen perpetrator also writes a "responsibility letter" to the victim, describing the abusive incident and taking full responsibility for his actions. The letter is not sent to the victim, but rather is shared in the weekly batterer group. Another responsibility involves completion of an "abuse journal" and an "empathy letter" in which the youth acknowledges the physical and mental trauma he causes the victim. Using the "Abuse of Family Members Wheel" and the "Mutual Respect Wheel," the juvenile reports to the group his positive and negative behaviors toward family members during the week. Finally, the parent and youth engage in a role-play in front of the group, giving the offender practice in respectfully interacting with his parent and allowing the group to offer suggestions.<sup>44</sup>

The Step-Up Program's Parent Group focuses on teaching safety planning and response tactics that increase the chances of resolving conflicts without violence. Due to guilt, shame, and other valid reasons, parents may need "permission" to involve law enforcement.<sup>45</sup> By clarifying how to avoid or leave the abusive confrontation with her child, the parent can develop a

Safety Plan. Given the chaos inherent in a violent incident, the parent must have a prepared action plan, including use of a developed support network. Just as with the juvenile perpetrators, parents must learn that abuse most often is not based in anger, but in the need to control.<sup>46</sup>

Facilitators also remind parents that they are role models, and that if their children learn that violence is an appropriate means of resolving conflict, the children are more likely to model such behavior.<sup>47</sup> Children need not be directly beaten to become violent; it is enough for them to witness their parent being abused. Believing that children emulate the interaction model of adults in their home, social learning theorists posit that youths witnessing violence between parents will likely assume that violence is acceptable.<sup>48</sup>

### C. Santa Clara County, California

In April of 1999, a Juvenile Delinquency Domestic/Family Violence Court (hereinafter Juvenile FV Court) was established in San Jose, under the leadership of Judge Eugene Hyman, previously of the Santa Clara County Domestic Violence Court. Judge Jerome Brock, of the Santa Clara County adult domestic violence court, said, "When I heard about it, my first thought was, 'What a stroke of genius.' I'm dealing with adults, trying to break that cycle, and it's a lot more difficult when they're 30, 40, or 50."<sup>49</sup>

Currently, youths convicted of domestic violence-related crimes can continue on probation until they are 21. If they are still on probation but recidivate after turning 18, the District Attorney's Office turns over the case to the juvenile division. Handling most of the juvenile family violence cases, Karen Berlin is the Deputy Probation Officer, with an average of 35 active cases—all involving the clients, victims, and their respective parents. These youths remain on "maximum level supervision," with office and home visits combined with a monthly appearance in court to report on their progress. "That's what changes a batterer's behavior," Berlin notes. "It's everyone—police, judges, probation, the community—giving the perpetrator the same message so he knows there's no way out for him. That we, as a community, won't tolerate domestic violence."<sup>50</sup>

Through adoption of a written protocol, the Santa Clara County Juvenile Probation Department standard-

ized its procedures for handling family violence cases. The protocol was established with two goals in mind—the first being to protect abuse victims from further harm. To that end, probation officers provide parents with educational materials, describing how to obtain a protective order and file a police report should abuse recur.<sup>51</sup>

The Probation Department's second goal is to ensure that the juvenile batterer takes complete responsibility for his abusive behavior. Successful completion of their Juvenile Batterer Intervention Program is required, in addition to any substance abuse, mental health, or other counseling found necessary. Of particular importance is the probation officer's investigation of all violence occurring within the youth's family, given that if the mother is being battered by an adult partner, the youth has an increased likelihood of modeling that behavior and will not cease unless all violence within the home ceases.<sup>52</sup>

In Santa Clara County, when a law enforcement officer brings a juvenile domestic violence perpetrator to its detention facility, the DV/FV Unit immediately receives the referral for review. If the Supervising Probation Officer decides the case warrants specialized attention, the DV/FV Unit retains it.<sup>53</sup> At the detention hearing, the Court determines whether the youth should be released pending the next court date. If the judge decides the parent's safety will be jeopardized by the juvenile's release, the juvenile will be held. Most juvenile courts premise the youth's freedom upon his agreeing to "conditions of release,"<sup>54</sup> but the Santa Clara County Court usually issues a Juvenile Delinquency Protection Order. Similar to most states' adult domestic violence protective order, this order mandates that the youth "[s]hall not annoy, harass, strike, threaten, sexually assault, batter, or otherwise disturb the peace of the protected persons named below." However, unlike adult orders, it clearly precludes any witness tampering: "The youth [s]hall not attempt to or actually prevent or dissuade any victim or witness from attending a hearing, testifying or making a report to any law enforcement agency or person."<sup>55</sup>

After the detention hearing, the probation officer commences an in-depth investigation of the juvenile's home situation, regardless of whether the youth is held or released. Of particular interest is any evidence of past

or current family violence which may contribute to the current crisis.<sup>56</sup> Because most parents lack knowledge of the juvenile justice system and are intimidated by the judicial process, probation officers attempt to quell unease by providing ongoing guidance.

The report is presented to the court at the disposition hearing, with the probation officer including recommendations for the youth's rehabilitation plan. Cases involving family violence most often include the following four suggestions. The first involves mandatory attendance at the 26-week Juvenile Batterer Intervention Program at the Center for Human Development of San Jose.<sup>57</sup> Judge Eugene Hyman orders juvenile batterers into the program as a condition of probation. This option is available only to males because the groups are gender-specific (none currently exists for females). Part of the basis for this deficiency is founded on the belief that the vast majority of female juvenile offenders are better suited for group counseling geared to victims because their violent behavior is often self-defensive or as the result of childhood trauma.<sup>58</sup>

Second, if a Juvenile Delinquency Protective Order was not issued at the detention hearing, the probation officer will usually request one at the disposition hearing. Based on the Full Faith and Credit provisions of the U.S. Constitution, the Juvenile Delinquency Protective Order is enforceable throughout the country. Furthermore, violation of the Order constitutes a criminal offense for which the youth can be arrested.<sup>59</sup>

The third frequent action, and another unique component of the Santa Clara County Juvenile Court's program, is its in-depth evaluation of the child's home and school life, especially if the child is exposed to violence. Many juvenile courts pay scant attention to the defendant's concurrent victimization, choosing the expeditious resolution by limiting the scope of their investigations. Recognizing the folly of ignoring the source of the juvenile's abusive behavior, Santa Clara County devotes reasonable efforts to identifying and treating violence modeled for the youth. As soon as possible in the investigation process, the probation officer determines whether the juvenile has been abused by a parent. If so, the officer recommends that the parent attend a Parenting Without Violence course with the hope the parent can learn a non-violent interactional style, thereby decreasing her own victimization.

The fourth typical intervention involves the parents. Thus, in addition to supervising the juvenile's attendance at the batterer intervention program, the probation officer also maintains contact with the abused parent, advocating a monthly check-in.<sup>60</sup> Probation officers also explain conditions of release with juveniles and parents. As part of the parent's safety planning, the probation officer explains that participation in the Juvenile Batterer Intervention Program and the existence of the Juvenile Delinquency Protection Order provide no guarantee of freedom from harm.<sup>61</sup>

Even in the face of success with a number of the juvenile perpetrators, challenges remain. "People have tried to differentiate teen violence from adult violence, but now that I've had some of the young survivors in front of me, I've seen that they are exactly like adult victims," Judge Hyman observed. "The recantation, the denial. You're seeing 16-year-old women acting the same as 30-year-old victims."<sup>62</sup> Judge Hyman and Berlin stress that Santa Clara County's commitment to a coordinated community response to domestic violence greatly facilitates their program's efficacy. Presiding over the County's juvenile dependency court, Superior Court Judge Leonard Edwards says, "Frankly, this is the smartest thing we've done. In order to have a successful prosecution where the offender 'gets it' and ultimately changes his behavior, you have to have good police work, good judicial work, good probation work, and good follow-up on the law enforcement side. We're getting more and more sophisticated in this county."<sup>63</sup>

### III. Travis County (Texas) Juvenile Court Replication Efforts

After observing the success of the King County and Santa Clara County Juvenile Courts' Domestic Violence Programs, the Youth Issues Committee<sup>64</sup> of the Travis County Domestic Violence Task Force<sup>65</sup> decided to replicate these innovations. The momentum was spurred by a 1999 Youth Issues Committee Report on juvenile batterers in Travis County and a compelling paper written by Emily Fry, a University of Texas law student.<sup>66</sup> By highlighting the unmet therapeutic and safety needs of Travis County juveniles, Fry argued for implementing reforms and identified potential funding sources for a domestic violence unit within the Travis County Juvenile Court (TCJC).<sup>67</sup>

Highlighting the need for improved data collection, screening, and counseling services for victims and offenders, the 1999 Youth Issues Committee Report on current practices with juvenile batterers elucidated the need for action.<sup>68</sup> The King and Santa Clara counties' courts shared information regarding the funding of their programs and reports, protocols, and other relevant documents that would facilitate replication.

On the Youth Issues Committee (hereinafter the Committee), TCJC Judges Bill King and Allison Benesch joined with probation, prosecution, defense, mental health, law enforcement, social work and school district staff, domestic violence attorneys, advocates, and survivors to determine how to weave family violence-oriented services into the on-going planning process. Safeplace, the local domestic violence and sexual assault program, had been running the nationally-recognized Expect Respect program, covering dating violence, sexual harassment, and bullying along with counseling for survivors, support groups on healthy dating relationships, prevention education, and staff and parent trainings.<sup>69</sup> It is planned that they will facilitate the youth batterer intervention program. The TCJC was already in the process of establishing an Assessment Center, geared to identifying the mental health, substance abuse, education, and other needs the youths have. Psychological evaluations are already prioritized for juveniles held in detention, but are now also available for out-of-custody family violence cases.<sup>70</sup>

### A. Cultural Competence in Addressing Juvenile Family Violence

Nationwide, juveniles of color comprise 32% of the youth population, but 68% of the juveniles in secure detention facilities.<sup>71</sup> Federal and state studies indicate that youths of color experience a "cumulative disadvantage" as a result of unfair treatment at every stage in the system. In comparing white and minority youths before the court for the same offenses, African American juveniles with no prior admission had a six times greater likelihood of being incarcerated than did the white youths. Hispanic juveniles had a three times greater chance of being incarcerated than white youths.<sup>72</sup> In Texas, juvenile referrals to probation for misdemeanor and felony offenses also reflect a disheartening disparity based on race.<sup>73</sup>

In Travis County, the statistics reflect the need to fur-

ther examine the correlation between race and case dispositions.<sup>74</sup> Our Committee seeks to analyze how decisions are made at critical points in the juvenile justice system, from arrests and detention to adjudication and disposition, with particular regard to youths of color. We want to ensure direct advocacy on the issues that disproportionately impact minority youths, including conditions of confinement in juvenile facilities, prisons, and jails; adequacy of representation; school discipline; and family violence matters. A priority is building on existing partnerships with community-based stakeholders of color to determine the most effective strategies for helping youths of color.

### **B. Collaboration With Law Enforcement**

Some officers view juvenile family violence as requiring police involvement, but others voice skepticism at interceding in what they believe are family disputes. However, Santa Clara County Judge Eugene Hyman advises the Committee should serve in an assistant role, deferring to police expertise in developing a protocol on this issue. Rather, he suggests that police cooperation must be premised on respecting its expertise in developing a protocol.<sup>75</sup> The Santa Clara County Protocol states that officers must employ the County's mandatory arrest policy when responding to family violence cases, whether the accused is adult or juvenile.<sup>76</sup> Their policy statement in the Protocol is telling: "The Police Chiefs Association of Santa Clara County recognizes that acts of domestic violence are a serious problem among juveniles, and therefore has included juveniles in this protocol."<sup>77</sup> Both the Austin Police Department and the Travis County Sheriff's Department follow the state law presuming arrest is the appropriate response when an officer has probable cause to believe a domestic violence crime has occurred.<sup>78</sup> As yet, neither Department's written policies specifically require equal treatment of adult and juvenile batterers; however, both maintain that officers should arrest a domestic violence offender without consideration of age.<sup>79</sup>

### **C. Intake and Screening for Abuse**

Recognizing that courts must use a comprehensive screening mechanism<sup>80</sup> to identify abuse victims and offenders as early as possible, the Committee adopted a plan for all juvenile offenders to be screened for domes-

tic violence as part of the present intake process. The Travis County Juvenile Court opened its Travis County Juvenile Probation Assessment Center (hereinafter Assessment Center) in January of 2002, under the direction of Dr. Eric Frey. One of its goals is to expedite case handling to get youths in the prescribed treatment programs as quickly as possible.<sup>81</sup> Judge King works with the intake staff to ensure that screening for family violence occurs as part of the social history assessment. The Juvenile Court also uses the Massachusetts Youth Screening Instrument (MAYSI-2) to conduct mental health assessments, as mandated by recent Texas law.<sup>82</sup> This assessment tool makes no inquiry specific to family violence, but asks about violence the youth may have witnessed.<sup>83</sup> Assisting with this effort, law student David Bain wrote a draft *Travis County Juvenile Court Domestic Violence Policy & Protocol Manual*, working closely with Judge King and the Juvenile Court staff. The Committee is assisting Judge King and his staff in selecting several family violence-specific questions to ask all incoming youths.

### **D. Rethinking Dispositions and Services**

Many juveniles before the court are charged with offenses unrelated to family violence, but the presence of violence in their lives ensures continued delinquent behavior. Thus, Judge King suggests that youths adjudicated in such cases should also be referred to the specialized batterer intervention program since, for example, a juvenile adjudicated delinquent for theft crimes can be ordered to attend drug treatment if a substance abuse problem is present. As the probation officers screen for family violence, their findings are reported to the juvenile court judge, who then ensures the youth's attendance at the juvenile batterer intervention program, regardless of the nature of the underlying offense.<sup>84</sup> Judge King's proposal is significant for its potential to dramatically increase the juvenile perpetrator's access to particular services likely to prove most helpful in decreasing recidivism.

Texas' statutory mandate provides the juvenile court with the means to order the combination of services with the greatest probability of helping violent families grow toward healthy relationships.<sup>85</sup> As keeping parents involved in remedial services is often a frustrating challenge, the Committee seeks to develop a

support group for abused parents, similar to that offered as part of King County's Step-Up Program.

### **E. Juvenile Delinquency Protective Orders**

Judge Eugene Hyman is a strong proponent of his court's using specific orders, and states:

"Juvenile Protection Orders, like their adult counterpart, are an essential tool to help provide additional victim safety. It is important that the victim be informed that an Order cannot guarantee safety and that a safety plan must be prepared and followed. However, the Order sends a strong message to the batterer (orally at the hearing as well as in writing) that there will be no contact, and other prohibited behavior, during the duration of the order. The Order also allows the victim time away from the batterer to receive victim services, including the assistance of advocates. Finally, the Order allows law enforcement to make arrests for violations of orders even if not committed in their presence."<sup>86</sup>

Travis County Juvenile Court has decided it can adopt a policy of tailoring Texas Protective Orders to the same end. As of September 1, 2001, dating violence victims in Texas can obtain protective orders, availing themselves of the full panoply of legal remedies available to those related by blood, marriage, or a child in common, although it is unclear the process for minors.<sup>87</sup>

In fact, the Texas Protective Order statute provides that any "... district court, court of domestic relations, juvenile court having the jurisdiction of a district court, statutory county court, constitutional county court, or other court expressly given jurisdiction under this title"<sup>88</sup> may issue a protective order upon making a finding that "... family violence has occurred and is likely to occur in the future."<sup>89</sup> If the youth returns home to live with the victimized parent, the Protective Order could prohibit the juvenile from committing family violence<sup>90</sup> and require that he "... complete a battering intervention and prevention program..."<sup>91</sup> The court will commence issuing Protective Orders in juvenile family violence cases consistent with current provisions of the Texas law.

### **F. Juvenile Anger Management vs. Batterer Intervention Programs**

Committee members expressed concern that while adult domestic violence perpetrators were precluded from attending short-term anger management classes due to the classes' proven ineffectiveness,<sup>92</sup> juvenile family violence offenders were routinely ordered into such courses.<sup>93</sup> Rather than having poor impulse control, many violent youths use anger to manipulate and control parents and dating partners. As Paul Kivel, co-founder of the Oakland Men's Project, says, "Anger is not the problem."<sup>94</sup> By listening to perpetrators and examining their behavior, counselors have learned that violent behavior is most often deliberate—that is, the batterers choose to be violent. Some batterers exhibit generalized violence, but most will not assault the teacher who punishes them for being tardy to school or the constable who charges them with truancy.<sup>95</sup> Given that long-term batterer intervention programs are more successful at reducing recidivism,<sup>96</sup> the Committee views the type and duration of the referral programs as key.

For over a decade, the National Council of Juvenile and Family Court Judges (NCJFCJ) has engaged in ongoing activities addressing the overrepresentation of youth of color in the juvenile justice system. Consistently, the NCJFCJ asserts that court staff and treatment providers must reflect the racial and cultural composition of their jurisdictions.<sup>97</sup> However, service providers and juvenile courts rarely represent the diversity of the communities they serve—to the detriment of their youths. There is a dearth of research on abusers of color and of culturally specific intervention programs, but these abusers are over-represented in batterer intervention programs.<sup>98</sup> Batterer treatment programs have proved to be more effective when they are culturally competent<sup>99</sup> and behavior-based.<sup>100</sup> Researchers have documented that men of color have a greater likelihood of completing programs when the staff reflects similar ethnicity.<sup>101</sup> As most literature is based on studies of adult perpetrator interventions, hopefully the expansion of specific juvenile batterer intervention programs will ultimately produce data on this population.

Despite the high correlation between substance abuse and domestic violence,<sup>102</sup> experts report that while alcohol or drugs might disinhibit, they do not cause violence. Therefore, abusers who exhibit both

violence and substance abuse must be recognized as having two separate problems for which they must be held accountable.<sup>103</sup> Community support must also provide sanctions for new incidents<sup>104</sup> and ongoing partner contacts.<sup>105</sup>

### **G. Mediation**

Many juvenile courts focus their interventions on mediation between abusive youths and victimized parent(s), despite consistent findings that juveniles, particularly those in custody, will agree to virtually any conditions bringing short-term freedom. Because juvenile batterers, like their adult counterparts, rarely negotiate in good faith<sup>106</sup>—the very underpinning of successful mediation—it behooves juvenile courts to seek alternative models of case resolution. Many assaultive youths return home making it critical that effective programs focus on safety planning with parents and other victims. It is noteworthy that Duluth's DAIP, the King County Step-Up Program, and the Santa Clara County Family Violence Court do not use mediation in their youth-family violence programs.

Travis County youth counselors and probation officers reported to the Committee that many juveniles are sent to mediate conditions of release with the parents against whom they have offended. However, professionals confirmed results similar to those in national studies—that most abusive youths did not negotiate in good faith, but rather voiced agreement with whatever stipulations were necessary to facilitate their release. Thus, it is not surprising that counselors and probation officers report a high recidivism rate among cases resolved by mediation. Compounding the problem, most mediators are not familiar with the complex dynamics of family violence and cannot be expected to create safe resolutions.<sup>107</sup>

As parent and child victims report fear of retaliation for revealing the extent of abuse, the mediator's attempts to negotiate peaceful resolutions can only be viewed as disingenuous. The power imbalance between victim and offender is too great, effectively forcing the victim to minimize or deny the danger.<sup>108</sup> Such practices place the victim in the untenable position of having to assert, in the perpetrator's presence, her trepidation regarding his propensity for further violence. Mediation may be appropriate in other types of juvenile offenses such as truancy or theft, but it appears to sabotage the twin goals of victim safety and offender accountability. As with adult domestic violence cases, mediation is contraindicated in most youth-family abuse cases.

### **Conclusion**

The campaign to focus solely on punishment of juvenile offenders is ill-advised. Bowing to political expediency by peripherally treating juvenile batterers abdicates our responsibility to these high-risk children and their families. As the King County and Santa Clara County programs make clear, we must not only focus on the deed, but on the doer. Juvenile batterers and their victims enjoy neither political power nor a constituency, leaving their fate in the hands of professionals with whom they interact in the justice system. These children's unique treatment needs must be prioritized. In Travis County, we have taken on the challenge of improving our interventions with juvenile batterers and their families, with a tremendous debt of gratitude to the innovators in King and Santa Clara counties who have been more than generous in sharing their expertise. For youths or parents with no safe place in a violent family, juvenile court may be the only refuge, the sole source of safety and hope.

## **A U T H O R ' S A D D R E S S :**

Sarah M. Buel, J.D.  
Clinical Professor  
University of Texas  
School of Law  
727 E. Dean Keeton Street  
Austin, TX 78705

**Author's Note:** I want to thank Judge Eugene Hyman, and the Santa Clara and King County court staffs, for their generous sharing of their expertise and Nina Marie Olivo, Emily Fry, Chike Okpura, Monica Valdez, and David Bain for their research assistance. I also want to thank The National Institute for Victim Studies at Sam Houston State University (Huntsville, Texas) for furnishing partial funding for the research of this paper. For the full-length version of this article, please see [www.nivsonline.org](http://www.nivsonline.org).

END NOTES

<sup>1</sup> “Domestic violence” occurs when one intimate partner or family member uses physical violence, threats, stalking, harassment, or emotional or financial abuse to control, manipulate, coerce, or intimidate the other partner. Valente, R. (1996) *Domestic Violence and the Law, THE IMPACT OF DOMESTIC VIOLENCE ON YOUR LEGAL PRACTICE, A HANDBOOK FOR LAWYERS, THE AMERICAN BAR ASSOCIATION COMMISSION ON DOMESTIC VIOLENCE*, p. 1-3, [hereinafter HANDBOOK FOR LAWYERS]; and See e.g. Texas Family Code, Title 4, Ch. 71. Definitions, § 71.004 “Family Violence means: (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; or (2) abuse... toward a child of that family or household.” Sec. 71.0021. Dating Violence law takes effect Sept. 1, 2001, expanding those who can qualify to obtain a protective order as now including “...individuals who have or have had a continuing relationship of a romantic or intimate nature...”

<sup>2</sup> CNN Headline News, 10:50 p.m. Broadcast (July 26, 2001).

<sup>3</sup> Lundy Bancroft, *Meeting the Service Needs of Children Exposed to Domestic Violence*, as cited in D. Peacock and E. Rothman, Male Juvenile Perpetrators of Domestic Violence 1 (2001) (draft article).

<sup>4</sup> *Disproportionate Minority Confinement: 1997 Update*, JUVENILE JUSTICE BULLETIN, OJJDP, September 1998, (hereinafter Disproportionate Minority Confinement).

<sup>5</sup> See, Barrie Levy, ed. *DATING VIOLENCE: YOUNG WOMEN IN DANGER* (1991); and Barrie Levy, *IN LOVE AND IN DANGER: A TEEN'S GUIDE TO BREAKING FREE OF ABUSIVE RELATIONSHIPS* (1993).

<sup>6</sup> See, Bowker, Arbitell, and McFerron, *On the Relationship Between Wife Beating and Child Abuse*, FEMINIST PERSPECTIVES ON WIFE ABUSE (1988); Peter Jaffee, D. Wolfe, and S. Wilson, CHILDREN OF BATTERED WOMEN: ISSUES IN CHILD DEVELOPMENT AND INTERVENTION PLANNING (1990); Fredrica Lehrman, DOMESTIC VIOLENCE PRACTICE AND PROCEDURE, 1-24 (1996); Mildred Pagelow, *Effects of Domestic Violence on Children and Their Consequences for Custody and Visitation Agreements*, 7 MEDIATION QUARTERLY (1990); B. Rabin, *Violence Against Mothers Equals Violence Against Children: Understanding the Connections*, 58 ALB. L. REV. 1109, 1113 (Spring, 1995).

<sup>7</sup> Susan Guarino, *Delinquent Youth and Family Violence: A Study of Abuse and Neglect in the Homes of Serious Juvenile Offenders*, Massachusetts Dept. of Youth Services Publication #14,020-200-74-2-86-CR, pp. 5, 36 (1985). Note, the Texas Youth Commission has also conducted an unpublished study docu-

menting the high correlation between domestic violence and juvenile delinquency.

<sup>8</sup> G. Miller, *Violence By and Against America's Children*, 17 J. OF JUV. JUSTICE DIG. 6 (1989).

<sup>9</sup> Interview with Brian Snyder, Director of Court Services for the Travis County Juvenile Justice System, in Austin, Texas, by law student Emily Fry on March 3, 2000; as cited in her unpublished paper, *Breaking the 5th: The Juvenile Batterer; A Juvenile Batterer Intervention Program Proposal for the Travis County Juvenile Justice System, May 15, 2000, p. 19.*

<sup>10</sup> J. Silverman, A. Raj, L. Mucci, and J. Hathaway. *Dating Violence Against Adolescent Girls and Associated Substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy, and Suicidality*, 286 JAMA. The article can be ordered online through JAMA's web site, <http://jama.ama-assn.org>.

<sup>11</sup> Id. reporting that teen dating violence victims were “four to six times more likely than their non-abused peers to have ever been pregnant.”

<sup>12</sup> D. Covington, et al., *Severity, Manifestations, and Consequences of Violence Among Pregnant Adolescents*, JOURNAL OF ADOLESCENT HEALTH (2001; 28:55-61).

<sup>13</sup> M. Harrison, *Equal Partners*, TEACHING TOLERANCE 42 (Fall 1997).

<sup>14</sup> Id. at 43.

<sup>15</sup> Id.

<sup>16</sup> Id. at 44.

<sup>17</sup> The term “family violence juvenile court” refers to a designated session or court to address family violence cases within a juvenile court. The model is that embodied in Judge Eugene Hyman's Family Violence Juvenile Court of Santa Clara County, Calif., as discussed herein.

<sup>18</sup> Those drug courts which “coordinate treatment delivery with judicial oversight” are considered bona fide drug courts. The National Association of Drug Court Professionals, Drug Court Standards Committee, *DEFINING DRUG COURTS: THE KEY COMPONENTS*, January 1997, p. 2. [Hereinafter, “DEFINING DRUG COURTS”.]

<sup>19</sup> Id. at p. 12.

<sup>20</sup> Hubbard, R., Marsden, M., Rachal, J., Harwood, H. Cavanaugh, E., and Ginzburg, H. *DRUG ABUSE TREATMENT: A NATIONAL STUDY OF EFFECTIVENESS*. Chapel Hill: University of North Carolina Press, 1989.

- <sup>21</sup> Adams, David, *Identifying the Assaultive Husband in Court: You Be the Judge*, BOSTON BAR J. 29 (July/August 1989).
- <sup>22</sup> DEFINING DRUG COURTS, p. 14.
- <sup>23</sup> Id. at p. 16.
- <sup>24</sup> Id. at p. 17.
- <sup>25</sup> Adapted from Id. at 20-21.
- <sup>26</sup> Id. at 22.
- <sup>27</sup> Cooper, C., ed., APPLYING DRUG COURT CONCEPTS IN THE JUVENILE AND FAMILY COURT ENVIRONMENTS, A PRIMER FOR JUDGES, American University Justice Programs Office, p.22 (1995).
- <sup>28</sup> DEFINING DRUG COURTS, p. 24.
- <sup>29</sup> Adapted from Id., p. 25.
- <sup>30</sup> Id. p. 26. Traditional parameters of independent practice refers to the usual conduct of courts in case-handling; that is, their general aversion to change. Specialized drug (and domestic violence) courts have sparked introspection and, in some jurisdictions, have resulted in innovative practices. I am here arguing that juvenile courts should adapt some of the most useful lessons from drug and adult domestic violence courts to improve intervention outcomes for our youth.
- <sup>31</sup> Id. p. 27.
- <sup>32</sup> Id. p.32.
- <sup>33</sup> Id. p. 34.
- <sup>34</sup> Leonard P. Edwards, *The Juvenile Dependency Drug Treatment Court of Santa Clara County, Calif.*, 10 JUVENILE AND FAMILY JUSTICE TODAY (A publication of the National Council of Juvenile and Family Court Judges). 16 (Summer 2001).
- <sup>35</sup> Charles M. McGee, *The Washoe County (Reno) Family Drug Court*, 10 JUVENILE AND FAMILY JUSTICE TODAY (A publication of the National Council of Juvenile and Family Court Judges). 21 (Summer 2001).
- <sup>36</sup> STEP-UP FAMILY/DOMESTIC VIOLENCE INTERVENTION PROJECT, INFORMATIONAL PACKET (1999). The Washington State Governor's Juvenile Justice Advisory Committee provided a \$102,187 grant to the King County Judicial Administration, utilizing federal grants.
- <sup>37</sup> Id.
- <sup>38</sup> DULUTH DOMESTIC ABUSE INTERVENTION PROJECT: AN OVERVIEW 1 (1999).
- <sup>39</sup> Interview with Greg Routt, Step-Up Program facilitator for King County, Wash., conducted on March 14, 2001, by law student researcher Emily Fry.
- <sup>40</sup> STEP-UP INFORMATIONAL PACKET, Id.
- <sup>41</sup> Id.
- <sup>42</sup> The group format lends itself to discussions on violence in the juveniles' lives, media images of intimate relationships, and societal gender stereotypes. The fifth goal requires the juvenile to acknowledge responsibility for his abuse and understand that the victim is not to blame for the violence.
- <sup>43</sup> Id.
- <sup>44</sup> Id.
- <sup>45</sup> An abused parent may also be dependent on the teen for assistance with younger siblings, fear deportation by INS, hope for change based on the perpetrator's promises or desperately want to keep her family together. For further explanation, see Buel, S., (1999) *Fifty Obstacles to Leaving a.k.a. Why Abuse Victims Stay*, 28 COLORADO BAR JOURNAL 19.
- <sup>46</sup> The brochure's front cover says, "Do you have a son or daughter that scares you sometimes? Do they yell at you, call you names, put you down, demand that you do things for them? Do they shove, push, kick or threaten you? Are you afraid to tell them "NO"? There is HELP available. . .". Step-Up Program brochure provided to the author in May of 1998 and again on August 15, 2001.
- <sup>47</sup> Lehrman, F, (1996) DOMESTIC VIOLENCE PRACTICE AND PROCEDURE, 1-24.
- <sup>48</sup> Kratcoski, Peter, (1985) *Youth Violence Directed Towards Significant Others*, JOURNAL OF ADOLESCENCE, Vol. 8(2), 155.
- <sup>49</sup> Michelle Guido, *County tries to break cycle of domestic violence early, Pioneering justice system gives special attention to juveniles who batter*, SAN JOSE MERCURY NEWS, March 25, 2000, p. 1, col.1.
- <sup>50</sup> Id. at 11A.
- <sup>51</sup> Based on each family's needs, parents also receive an extensive list of community resources, emphasizing those assisting with emergency support. SANTA CLARA COUNTY PROBATION DEPARTMENT DOMESTIC VIOLENCE AND FAMILY VIOLENCE PROTOCOLS MANUAL (1999).
- <sup>52</sup> Id.
- <sup>53</sup> Factors considered in making this determination include evaluating the incident's severity, studying the history of abuse within the family, reading any Child Protective Services reports, and assessing the parent's level of safety. Id.

<sup>54</sup> For example, this is the practice in Travis County (Texas) Juvenile Court.

<sup>55</sup> SANTA CLARA COUNTY PROBATION DEPARTMENT DOMESTIC VIOLENCE AND FAMILY VIOLENCE PROTOCOLS MANUAL (1999).

<sup>56</sup> Concurrent with the investigation, the probation officer also informs parents of the Victim Witness Assistance Program within the District Attorney's Office, of their right to offer a Victim Impact Statement at the juvenile's sentencing, and of upcoming court dates. Id.

<sup>57</sup> Id.

<sup>58</sup> Interview with Christopher Hickey, Juvenile Batterer Intervention Program facilitator at the Center for Human Development in San Jose, Calif., conducted on March 28, 2000 by law student researcher Emily Fry.

<sup>59</sup> California Penal Code Sections 273.6 and 166 Contempt of Court. See also 136.1 and 136.2.

<sup>60</sup> SANTA CLARA COUNTY PROBATION DEPARTMENT, SANTA CLARA PROCEDURAL MANUAL FOR DOMESTIC VIOLENCE AND FAMILY VIOLENCE CASES (1999).

<sup>61</sup> Parents are also referred to victim advocates for assistance with formulating long-term safety plans. Id.

<sup>62</sup> Guido, M. *supra* note 31.

<sup>63</sup> Id.

<sup>64</sup> Revised on March 26, 2001, the Committee's mission is to coordinate a whole community approach for youth experiencing family/relationship violence and to create positive change by promoting safe, healthy relationships.

<sup>65</sup> Founded in 1989, the Travis County Domestic Violence Task Force is comprised of a myriad of professionals handling domestic violence matters, including judges, prosecutors, advocates, batterer intervention specialists, law enforcement and probation officers, pre-trial services and child protection staff, defense attorneys, mental health providers, and the clergy. The group meets monthly to tackle the challenges facing the community, with sub-committees taking an action-oriented approach to problem solving. The author has been an active member of the Task Force since 1996, and of the Youth Issues Committee since 1999.

<sup>66</sup> Emily Fry had worked with a public defender in the Travis County Juvenile Court and believed family violence issues could be more adequately addressed as part of intake, referral, and disposition. Fry, *supra* note 9.

<sup>67</sup> Id. p. 27, fn.121: CRIMINAL JUSTICE DIVISION, OFFICE OF THE GOVERNOR, APPLICATION KIT FOR YOUTH RELATED, JUVENILE JUSTICE AND CRIMINAL JUSTICE PROJECTS

(1999); and p. 28, fn. 123: The Criminal Justice Planning Fund.

<sup>68</sup> Unpublished Report to the Travis County Family Violence Task Force, November, 1999 (4 pages).

<sup>69</sup> For additional information on the Expect Respect Program and to order their free information packet or the Expect Respect Program Curriculum for Preventing Teenage Dating Violence and Promoting Healthy Relationships for \$35, call 512/385-5181 or on the Internet at [www.austin-safeplace.org](http://www.austin-safeplace.org).

<sup>70</sup> Report to Youth Issues Committee by Sherry Moore, TCJC Chief Probation Officer, July 16, 2001 at TCJC.

<sup>71</sup> *Disproportionate Minority Confinement*, *supra* note.

<sup>72</sup> *And Justice For Some*, Report by the National Council on Crime and Delinquency, as reported in THE NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES' UPDATE ON "MINORITY YOUTH IN JUVENILE JUSTICE," p. 6, (Jan. 9, 2001).

<sup>73</sup> African American youths are just 13% of the juvenile population, but they reflect 23% of the juvenile referrals. Fifty-one percent of Texas youths are white, yet only 38% of youth in the juvenile court system are white. Hispanic youth account for 39% of the referrals, but are 36% of the juvenile population. Fabelo, T., (2001) *Profiles of Referrals to Selected Juvenile Probation Departments in Texas*, Criminal Justice Policy Council Report prepared for the 77th Texas Legislature, p. 8.

<sup>74</sup> The Texas Criminal Justice Policy Council reports that in Travis County, African American youths are 13% of the juvenile population, but 29% of those on juvenile probation. Hispanic juveniles reflect 34% of the youth population, yet 44% have their cases within juvenile probation. Fifty-three percent of the youths are white, but they comprise just 27% of the referrals. Id. at p. 9.

<sup>75</sup> Judge Hyman explains that when Santa Clara County was developing its specialized court, it engaged the support of the Santa Clara County Police Chiefs Association. The Association's Chair, Palo Alto Chief Pat Dwyer, ensured the Domestic Violence Protocol of Law Enforcement was amended to include interventions with juvenile offenders. Interview with Judge Eugene Hyman, Santa Clara County Juvenile Court Domestic Violence Court, conducted on March 22, 2001 by law student researcher Emily Fry.

<sup>76</sup> Interview with Chief Pat Dwyer, Santa Clara County Police Chief's Association Chair and Chief of Palo Alto, Calif., conducted on March 26, 2001 by law student researcher Emily Fry.

<sup>77</sup> POLICE CHIEF'S ASSOCIATION OF SANTA CLARA COUNTY, DOMESTIC VIOLENCE PROTOCOL FOR LAW ENFORCEMENT (2001) p. 12.

<sup>78</sup> Texas Code of Criminal Procedure, Art. 5.04(a) (2000-2001) "Duties of Peace Officers (a) The primary duties of a peace officer who investigates a family violence allegation or who

responds to a disturbance call that may involve family violence are to protect any potential victim of family violence, enforce the law of this state, enforce a protective order from another jurisdiction as provided by Chapter 88, Family Code, and make lawful arrests of violators.”

<sup>79</sup> Interview with Sergeant Al LeBlanc, Travis County Sheriff’s Department, Austin, Texas, conducted on April 21, 2001 by law student researcher Emily Fry.

<sup>80</sup> Contact the Battered Women’s Justice Project, at 1-800-903-0111, for further information regarding screening tools.

<sup>81</sup> The Assessment Center’s primary objectives are to: “(1.) Assess social and academic functioning, mental health, and substance use for all youth detained by TCJPD within 10 days of being detained; (2.) Apply assessment and research data to provide rehabilitation and treatment recommendations that promote positive behavioral and emotional change, decrease risk of re-offending, and protect the youth and community; and (3.) Identify available resources and match them to recommendations so that youth receive appropriate rehabilitation and/or treatment services.” Summary of Travis County Juvenile Probation Assessment Center, as presented by Dr. Eric Frey at the Youth Issues Committee meeting on August 20, 2001 at the Travis County Juvenile Court.

<sup>82</sup> Texas Human Resource Code, Section 141.042(e) amended to read “Juvenile probation departments shall use the mental health screening instrument selected by the commission for the initial screening of children under the jurisdiction of probation departments who have been formally referred to the department.” The Texas Juvenile Probation Commission selected the MAYSI-2. Presentation by Dr. Eric Frey, Id.

<sup>83</sup> Id.

<sup>84</sup> Youth Issues Committee Meeting at the Travis County Juvenile Court, Feb. 26, 2001.

<sup>85</sup> The Texas Juvenile Justice Code Sec. 51.01(2) construes its purpose as “. . . consistent with the protection of the public and public safety: (C) to provide treatment, training, and rehabilitation that emphasizes the accountability and responsibility of both the parent and child for the child’s conduct.” Texas Family Code, Title 3. Juvenile Justice Code, Sec. 51.01(2)(C) (2000-2001).

<sup>86</sup> E-mail correspondence with Judge Eugene Hyman, August 29, 2001.

<sup>87</sup> Texas Family Code, Sec. 71.0021: (a) “Dating Violence” means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the individual in fear of imminent physical harm, bodily injury, assault, sexual assault, but does not include defensive measures to protect oneself.”

<sup>88</sup> Texas Family Code, Id. at Sec. 71.002.

<sup>89</sup> Id. at Sec. 81.001.

<sup>90</sup> Id. at Sec. 85.022 (b) (1).

<sup>91</sup> Id. at Sec. 85.022 (a) (1).

<sup>92</sup> Adams, D., *supra* note 19; and Paul Kivel, UNLEARNING VIOLENCE: A BREAKTHROUGH BOOK FOR VIOLENT MEN AND ALL THOSE WHO LOVE THEM, How To Replace Domestic Abuse With New Rules and New Roles, Real Power and Responsible Action, p. 100 (1992).

<sup>93</sup> As of February of 2001, Lifeworks counseling program was working with approximately 100 youths referred by the TCJC. Julie Speer and David Jenkins, counselors at Lifeworks, reporting to the Youth Issues Committee on Feb. 5, 2001, at TCJC.

<sup>94</sup> Experts suggest that a minimum of one year is essential since many batterers do not even emerge from the denial phase for about six months. One of the most successful programs is directed by Hamish Sinclair, a former batterer, and runs for three years, called “Man Alive” in Marin County, California. Similarly, at the Pivot Project in Houston, the Men’s Education Network in Tyler (Texas) and Family Services of Beaumont, (Texas) Inc., batterers are encouraged to continue attending sessions after completing the standard program. As with Man Alive, some of these “graduates” are then able to confront the new batterers entering the program with a myriad of excuses. Adams, Id. and Kivel, Id.

<sup>95</sup> Indeed, most adult abusers with criminal records have either assaulted intimate partners or been convicted of drunk driving or substance abuse offenses. Nancy Isaac, Donald Cochran, Marjorie Brown, and Sandra Adams, *Men Who Batter, Profile From a Restraining Order Database*, 3 ARCH. FAM. MED. 50 (Jan. 1994).

<sup>96</sup> *Supra* note 94.

<sup>97</sup> For example, in 1990 the Council published and disseminated to all its members, *Minority Youth and the Juvenile Justice System: A Judicial Response*, complete with practical strategies and recommendations to improve the legal system; subsequently the Council developed a training curriculum based on the *Minority Youth* publication; speakers and technical assistance on the topic are sponsored by the Council; and broad collaboration with other national organizations, such as the Children’s Defense Fund, the National Coalition for Juvenile Justice and Building Blocks for Youth. The Council also maintains a standing Committee on Diversity, ably chaired by Judge Wadie Thomas, of which the author is a member.

<sup>98</sup> Ritchie, B., (1998) *Defining Popular Culture Interventions*. Paper presented at Institute on Domestic Violence in the African American Community; and Williams, O., (1997). *Partner Abuse in the Black Community: Culturally specific Prevention and Treatment Models*. Paper presented at the

Institute on Domestic Violence in the African American Community.

<sup>99</sup> The LifeWorks batterer intervention programs in Austin (Texas) have been particularly conscientious about ensuring a diverse and well-trained staff. See also Oliver J. Williams and R. Lance Becker, *Domestic Partner Abuse Treatment Programs and Cultural Competence: The Results of a National Survey in VIOLENCE AND VICTIMS* (1994).

<sup>100</sup> See above discussion as to the contraindication of "Anger Management" programs since domestic violence is not about the inability to control anger, but, rather is based on the abuse of power and control with violence. Thus, Dr. David Adams asserts, batterers need to be taught that they will be held responsible for their actions, just as everyone else is.

<sup>101</sup> Williams, O. (1994), *Domestic Violence Partner Abuse Treatment Programs and Cultural Competence: The Results of a National Survey*, 9 *VIOLENCE AND VICTIMS* 287.

<sup>102</sup> *Id.* at 25, citing studies reporting from 48% to 70% correlation between substance abuse and family violence.

<sup>103</sup> *Id.*

<sup>104</sup> The Quincy (Mass.) Court Probation Department's Domestic Violence Unit (Chief Andy Klein and Deputy Chief Bruce Carr) takes a tough, no-nonsense approach to batterers

who violate the terms and conditions of their pre-trial release or sentences. By establishing a "revocation session" every Tuesday morning, Presiding Judge Charles Black further reinforces the message that there will be sanctions for the violation of protective or any other court orders.

<sup>105</sup> Beth Ledoux, a survivor and veteran legal advocate, also served as the post-conviction liaison with victims at the Quincy (Mass.) Court Probation Department. As a result of her on-going contacts and safety planning, the Court was able to dramatically increase the number of victims reporting violations and seeking the help they needed to escape.

<sup>106</sup> Adams, David (1989) *Identifying the Assaultive Husband in Court: You Be the Judge*, *BOSTON BAR JOURNAL*, 33, 23-25.

<sup>107</sup> Karla Fischer, Neil Vidmar & Rene Ellis, *The Culture of Battering and the Role of Mediation in Domestic Violence Cases*, 46 *SMU L. REV.* 2117, 2131-32 (1993).

<sup>108</sup> Barbara Hart, *Gentle Jeopardy: The Further Endangerment of Battered Women and Children in Custody Mediation*, 7 *MEDIATION Q.* 317, 322 (Summer 1990); Andree G. Gagnon, *Ending Mandatory Divorce Mediation for Battered Women*, 15 *HARV. WOM. L.J.* 272 (1992), as cited in Melanie Kane-Gonzales, *DOMESTIC VIOLENCE AND MEDIATION IN TRAVIS COUNTY* (April 1997), unpublished article, available at the University of Texas School of Law Library in Austin.