

## Tri-County Batterer Intervention Provider Network Minutes: 6/26/01

**Present:** Chris Huffine (Men's Resource Center), Michael Davis (Changepoint), Stacey Womack (ARMS), Stan Brown (Clackamas County Mental Health), Vivien Bliss (Solutions), Margaret Langslet (PSU)

**Minutes by** Margaret Langslet and edited by Chris Huffine

### **Topic: When should no contact orders be lifted?**

-People who had specific expertise in this issue

(e.g., probation officers, restraining order room staff) were invited to come to the meeting, but not a lot of representation was in attendance.

-There is a difference between no contact orders and restraining orders. The court takes out no contact orders and

they are primarily utilized in the midst of a criminal process. Individuals petition the court to take out a restraining order on an intimate partner or family member and it is a civil proceeding. No contact orders are common in domestic violence cases. Part of the pre-release agreement (after a man has been arrested, so that he can get out of jail, but prior to arraignment) typically includes a no contact order. After a man is found guilty or is on probation for domestic violence no contact orders are also fairly common.

-At some point the no contact order has to be lifted and the man can have contact with the victim again. Providers get asked when this should happen.

There is a diversity of opinion on what the general response to that question should be. One provider routinely replies not until the man has completed the program. Other providers feel that it is vital that the order be lifted before the man completes the program. The order will be lifted at some point and it is better when the man is still under the watch of the court and has the resources of a provider. They should be in a program so that there can be some monitoring. Some men are okay after contact, but for some the intensity causes problems and the provider can help. If the couple plans on reconciling at some point, then it can be beneficial to have it about half way through the program. The exception is when there are no plans of reconciliation or the victim doesn't want the order lifted. If the victim and perpetrator want contact, the order should be lifted while the man can talk about it in group.

-One view is that the victim

should have the sole voice in determining when a no contact order should be lifted. But a lot of times the victims are struggling with their emotions and decisions. Many victims may not be at a strong enough place to make those decisions. There may also be pressure from others to have the no contact order lifted.

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Another problem to extending a no contact order when the woman wants it lifted and they do plan on reconciling is that keeping the no contact order in place can put a financial drain on family resources because of the need to maintain two separate households. Many times this ultimately takes money away from the victim and the children.

-When someone asks a provider if a no contact order should be lifted, they are essentially asking if the man is safe.

In other words, they are asking for an assessment of future risk of further violence. Most providers don't have the time or resources to do a complete assessment to adequately answer that question. The simplest response we can give to that question of "is he safe?" is "we don't know". So, in responding to such questions, it is important that providers not guarantee that a man will or has changed, but instead simply comment on what they have observed in the group and that they can offer no assurances of his level of risk. In general, they need to encourage caution in having the no contact order lifted. Providers can block no contact orders from being lifted with more confidence than being supportive of when one should be lifted. If we have clear concerns, it is important that we make those concerns known to the court. When a provider overestimates a man's danger (i.e., provides a "false positive") there are less consequences than when they underestimate (i.e., provides a "false negative"). But is it unethical to do false positives? Providers should err on the side of false positives. The lethality base rate is so low that false positives are inevitable and unavoidable.

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Keep in mind that just because there is a no contact order in place doesn't mean that the man isn't having contact. It doesn't physically prevent men from initiating contact. For many men a no contact order, like a restraining order, is just a piece of paper. A related problem is that in at least some cases a no contact order does not stop contact, it just stops the man from talking about it.

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An advantage to no contact orders, which is also true with restraining orders, is that they give the victim some additional power in the relationship. The no contact order only applies to the perpetrator, not the victim. There is no way that she can break it. In some cases, she may allow contact, but if he starts behaving inappropriately she can intervene by threatening to report a violation of the no contact order. However, the court typically encourages the victim not to have contact with the perpetrator even though the victim technically can't "break" the no contact order. Likewise, victims who do so repeatedly may not be given the same level of consideration by the court or probation if further harmful contact occurs.

-No contact orders are enforced differently from county to county. Some are all or nothing while others are modifiable. Some counties have a firm minimum duration of the no contact order while others determine it on a case by case basis.

-One advantage to a no

A contact order over a restraining order is that because the no contact order is initiated by the court, the victim may be more likely to follow it than a restraining order that she requested. No contact orders are

also good because many women won't go to the court on their own (to get a restraining order), but feel validated when the court puts out an order.

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One modification that can be helpful with no contact orders is when contact is allowed but that no "offensive contact" is permitted. That condition makes it easier for probation officers to get probation violations if the man is not acting appropriately.

-One suggested guideline for when no contact orders should be lifted: No contact orders should be lifted after the victim is contacted and has had a chance to share her concerns, the perpetrator has been actively involved in a program for a significant period of time (e.g., three or four months) and both people want contact. If the victim doesn't want contact or the perpetrator isn't working with the program, the order should not be lifted.

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There may be advantages to gradually lifting the no contact order in stages. For example, phone contact; contact in public places; no overnight contact; overnights but separate residence; and finally full contact. Such gradual increases allow for more thorough progressive evaluation by both the victim and the probation officer and help keep the intensity and extent of the contact to a more manageable level where there is less risk of further abuse happening.

-Some men do well in programs, but after they have contact with the victim, the men go back to their old patterns.

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Keep in mind that the decision to lift an order ultimately resides with the judge. It is the judge's responsibility, not the provider's, to determine if the no contact order should be lifted.

-Who should contact the victim-

-the judge, probation officer, an advocate or the provider? If the victim wants to, they can contact the probation officer or the provider. Ideally it should be a victim advocate that contacts the victim because they have the victim's best interest at heart. Besides advocating for the victim's best interest, the victim advocate can also provide outreach and education to the victim which can allow her to make more informed and empowered decisions. The probation officer isn't there to be an advocate for the victim; they have to report to the court.

-In the past some counties victims have to go to a certain number of victim support groups before the order is lifted. An informed victim is the best predictor of violence, but so many victims aren't informed. Even if it isn't directly the perpetrator, many other people may be doing power plays with the victim. Others feel victims should not be mandated to anything. They should have the right to determine their own safety. Yet almost all the mandated women are glad they were required to attend after they go to support groups, which further complicates this issue.

-Some men are honest about violations to no contact orders, but others just lie about it. When it is lifted these men can begin to talk about the contact and problems that arise. A lot of men have contact during the orders, but just don't talk to the providers about it. Some men will lie about contact and problems no matter what, but most men will be truthful after the legal ramifications have been taken off.

-That reinforces that providers cannot assess the risk of men and say if they are free of abuse. If the man is not completely free of violence, there is no reason to lift a no contact order.

-Are there other points concerning determining when to lift no contact orders that haven't been addressed?