

Tri-County Batterer Intervention Provider Network Meeting Minutes May 12, 2015

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Minutes by Rachel Smith and Kate Sackett, edited by Chris Huffine

Topic: A Classification System for People Arrested for Domestic Violence (Presentation by Chris Huffine)

Topic Introduction:

Editor's notes: This presentation/concept has been slightly revised since the presentation a year ago. The information included here reflects some of those revisions, which were not actually made until after the meeting.

One thing that has been coming up in our work recently is the issue of having a "one-size-fits-all" approach to sentencing men convicted of domestic violence. This topic is especially currently popular among judges, who make the point that, basically, not all batterers are the same. The popularity of this topic has led to some concerning developments in certain Oregon counties where some men convicted of DV are being directed to do short term DV or required to attend fewer sessions. Today's presentation is Chris' proposal for how to address this issue, and will also be presented to the State BIP Standards Advisory Committee in June. The goal for today's presentation is for Chris to get some feedback on the content of the presentation and for the group to discuss how to address the dilemma judges are facing when faced with someone with a domestic violence charge and are trying to figure out "what to do with them".

One common dilemma that judges face is determining what level of intervention to require of people arrested on a domestic violence charge. Given that they can vary greatly in the level of severity of the assault, their prior criminal history, their apparent domestic violence history, and their apparent risk level, some judges are uncomfortable with giving all of them the exact same sentencing package, especially if the intervention is going to be fairly lengthy. They don't like the idea of a "one size fits all" approach. Many look to the substance abuse field where individuals getting the same legal charge (e.g., DUI, PCS) will be directed to different levels and lengths of treatment based on an evaluation by a substance abuse professional. Many would like to see something similar within the domestic violence field.

While this makes sense, there are a couple (at least) problems with this. One is that it is common for abusive individuals to lie and deny their past abuse, so their self-report, especially at intake, cannot be trusted. Furthermore, there is no objective test or tool that can easily and reliably

determine their actual level of abuse. As a result competent domestic violence evaluations, particularly those that reach the conclusion that the person does not have patterns of abuse and control, can be quite time consuming and not a viable option. The other problem is that judges, and others, often appear to overestimate the number of non-abusive men being arrested for domestic violence. Most providers agree that they rarely see mandated men who ultimately don't have a significant history of domestic violence beyond the arresting incident. In other words, a first time conviction rarely means a first time offense.

This classification system is intended to outline the possible subgroups of individuals who might get arrested on a domestic violence charge. While it is primarily based on theory developed from over 20 years of experience, there is some empirical support for it, including the classification system of Holtzworth-Munroe and Michael Johnson's research. Most notably research done a number of years ago by Dasgupta and Pence who independently (i.e., that study was not seen until after this system was created) outlined a similar classification system, with the exception of group #4 (continuing subtle abuse).

Here is a brief summary of the classification system:

Classification System for Those Arrested for Domestic Violence

- 1. One time event
 - ☐ No other history of any kind of abusive behavior
 - ☐ Family is not afraid or concerned
 - ☐ Pro-social belief system
- 2. Limited occurrence due to other psychological issues
 - ☐ Limited incidents of any kind of abusive behavior, not forming a significant pattern
 - ☐ Family is not afraid or concerned about the abusive behavior
 - ☐ Pro-social belief system
 - ☐ Limited abuse that has occurred is explained by some other issue/condition (e.g., PTSD, Bipolar Disorder)
- 3. Secondary aggression
 - ☐ Limited history of abusive behavior of any kind and only towards the specific abusive partner
 - ☐ Abusive partner has the more significant and substantial history of abusive behavior towards the "abuser"
 - ☐ Abusive behavior has only been done in response to/within the larger context of the other person's abusive behavior
 - ☐ Family is concerned about the "victim's" behavior, not the "abuser's"
 - ☐ Pro-social belief system
 - ☐ Accountable for the abuse they have done
- 4. Continuing subtle pattern
 - ☐ A single extreme incident or a single incident of physical abuse

- ☐ An on-going pattern of milder and more subtle patterns of abuse and control likely in any long term romantic relationship
 - ☐ Family is concerned about the behavior—either afraid, frustrated, or confused
 - ☐ Pro-abuse belief system
 - ☐ Typically not particularly accountable and minimizing of their abuse
- 5. Continuing obvious abuse
 - ☐ Clear pattern of abusive and controlling behavior
 - ☐ Family is concerned about the behavior—either afraid, frustrated, or confused
 - ☐ Pro-abuse belief system
 - ☐ Typically not particularly accountable and minimizing of their abuse
 - 6. Larger criminal pattern
 - ☐ Abusive behavior is just one of a variety of criminal behaviors
 - ☐ There may not be a legal history or formal charges related to the domestic violence
 - ☐ The abusive behavior is often eclipsed by the other criminal behavior which leads to the individual being defined by that behavior (e.g., drug dealer, gang member)
 - ☐ Family is concerned about the behavior—either afraid, frustrated, or confused
 - ☐ Pro-abuse belief system
 - ☐ Typically not particularly accountable and minimizing of their abuse

Attached is a table that was distributed that outlines much of the same information.

The first two categories are both quite rare and also do not really need specialized services for abusive partners. The third category preferably needs a specialized group for secondary aggressors. The majority of women arrested for domestic violence fall into this category. The final three categories need batterer intervention. It was further proposed that if it is not clear which category a person falls into they should be placed into a regular batterer intervention program for monitoring and can be released early if and when it is concluded that they fall into one of the first three categories.

Below is a summary of the group discussion about this presentation.

"Secondary Aggression" Category

This is a difficult group for probation to work with. Better education for the courts on this would be helpful. No-contact order in these cases also becomes more difficult, because if the person under supervision is the secondary aggressor, the abuser is not going to stop their abuse. A lot of times in the cycle of abuse, the secondary aggressors will appear, from the outside, to have initiated the abuse, but they really didn't in the full context of the relationship.

At Allies in Change, there are 2 different groups for women arrested/mandated as abusers: (1) secondary abusers and (2) non-secondary abusers. The staff have seen significant differences in these two groups of women. Nearly all of the women in either group in the program have

histories of victimization, whereas a smaller number of male clients do (perhaps a modest majority).

It is difficult for some of us to label someone who has power in the relationship as a secondary abuser. There is an element of self-defense with secondary abuse, but there is also an element of punishing, but is that not really retaliation. However, a retaliation attitude is not underbellied by a belief system characterized by power and control, but there's still a manipulation issue going on there. The key is that there is not an underlying pattern of abuse and control. What distinguishes this is that the secondary abuser does not have contempt for the partner (though they may for the behavior), whereas a primary abuser may display contempt for the partner. This also relates to communication skills, and the fact that anyone can use a communication skill abusively. Another analogy is with bullies, but the problem with that is many women are abused by multiple partners and the courts are not very good in their responses when they start to see that pattern with the victims, which also gets into victim blaming issues.

Regarding choice and control with secondary abusers - it's not necessarily that these individuals actually have that much of a choice or control over their own lives when they are the ones being abused.

"One-Time Event" Category

There is not really an assessment tool that accounts for the more subtle forms of abuse.

This category also includes those people who are only physically abusive when they're drunk, because most of the time that is when their inhibitions are down and they allow themselves to be physically abusive, which leads to arrest, but still appears (on the outside) to be an isolated event.

It was emphasized that individuals who have subtle patterns of abusive behavior would still fall into category #4. This category is intended for the true "one time only" individuals who are highly unlikely to be arrested and therefore there should be a very small number of arrestees who fall into this category.

"Larger Criminal Pattern" Category

These are the individuals who will score highest on most DV assessment tools. Within the criminal justice system, we often see individuals in this category when probation violation behaviors are also present. In BIPs, however, we more rarely see individuals in this category, including parolees on parole from prison. This is partly because other criminal behavior may be the primary focus within the criminal justice system and the domestic violence perpetration may be overlooked.

Difficulty assessing placement - unreliable self report assessment tools. This is what we've been talking about. Different kinds of dishonesty include willfully lying, in denial, ignorant (easiest group to work with, as they become more accountable when you start working with them). But what do you do about assessment? You could place everyone in the same BI group, evaluate to determine placement, or sort based on risk. Chris is proposing using the classification system to

sort, if you're clear about the category go with that; if not clear, put them in the group for ongoing abuse and then let the providers monitor and re-evaluate, put them in a different group if they deem appropriate.

Faking being a “false positive” (i.e., claiming you have been falsely accused, which is not accurate)

Typically all are put into a single DV group, which will be right most of the time. Problem is the small number shouldn't be in the group (false positives), but very few of those. Many judges likely swayed by fake "oops", that was a one-time occurrence?

Couldn't these abusive partners “fake” being a “false positive” which could then lead them to being released early? We can't say very confidently at the start as some of these abusive partners can be quite convincing about their innocence. However, it's hard to fake it for a longer period of time - will come out after 3 or 6 months. We won't be able to tell you in an hour or three hours, but it will become evident over time in a group. They'll sort themselves out over time. The dangerous part is that if they fake false positives they are out of the regular DVIC and get off probation very quickly. How many people who do that fake false positive have disproportionate privilege--higher income, white, etc. System is more likely to identify white, wealthy, etc. as one-off #1 people because of racism, classism, etc. So it does seem more likely. It's not only because of obvious racism, sexism, but also that those guys have more to lose and so don't give themselves permission to break the laws, They're doing lots of abuse, just not much illegal abuse.

Chris clarifying category 4: It is not that they don't have extreme acts of violence, but they do not have the documented history of arrests, physical assault, etc. (racism, classism, etc. and more to lose).

DV evaluations

- 2 kinds of evaluations:
 - Quick evaluations - done more in other states than in OR. Quick meeting with provider. Lots of lying, probably will err in the direction (depending on the provider) of guilt if assume everyone lies, or false negatives.
 - In depth evaluations - longer process, involving extensive interview and gathering collateral information; goal is to categorize as DV perpetrator/not with confidence, even knowing they lie. Not practical: Takes hours.

In Oregon does every many who get arrested in the state get evaluated? No - policy now is that most who get arrested do NOT do evaluations, they do intakes because they lie. The general presumption is that if one is arrested for DV one needs to do a DV intervention program. The arrest, alone, is enough to move forward. We can assess if they will be a good fit for our program (or your program), but we never say we can evaluate if someone is a perpetrator or not.

In Washington state most providers do 1 hour evaluations, which are required by their state standards.

At what point would they get an evaluation? Wealthier men tend to push for evaluations. They can pay a psychologist, often with no DV background, to do and will often be in the cause of custody cases, or to make partner look bad, put in the mental health realm.

A more common type of evaluation relates to using risk level to determine placement. There is some forensic support for this. The problem is that a significant proportion will score as low risk who need full-on services. Forensic evidence and risk level really is better used more for supervision than treatment. The problem using traditional risk assessment tools is that it is taking methods that are used with other types of issues and applying it to DV and it doesn't always translate (e.g. outpatient drug treatment does not have the same model or issues as DV treatment).

Application of the classification system

One person said it seems very complicated for the average program to implement; instruments needed to assess these things. Chris said that it's not as complicated as it seems. To put it simply, do you think this person has a pro-abuse belief system and a pattern of abuse—if they do then they should be in a program. The problem is that we won't know if they need it or not until we get to know them over time. The court shouldn't be the one to sort this out. Another concern is that this decision might be made by someone who isn't particularly knowledgeable about DV.

The point of developing this system is that judges tend to overestimate how many people are in the first two categories and mistakenly place some abusive individuals into those categories and then don't require intervention or only very brief interventions (e.g., brief anger management).

Resistance to placing abusive men in batterer intervention programs

Part of the inspiration for creating a classification system like this has been a long history of resistance from the bench to putting all men in single year-long treatment. Likewise, some counties have been sorting abusive men into different programs based on risk level, which also has its problems.

Judges may also just have problems with existing programs - ones that say all batterers are the same or are presumed to have monetary motivation to get as many people as possible in the group. While some programs may do that, most are not driven by profit.

Another problem is that there are places around the state and the country where probation isn't actually supervising DV offenders, in part because many of them are being charged with misdemeanors which are not funded. This leaves it to the court to sort all of this out. As a result some courts are looking at alternatives, particularly for these "first time offenders" and "lower risk" individuals. Judges don't have a lot of options when it comes to how to respond to people arrested for domestic violence. It sounds like they'd like other options besides a full length year

long program. They may not feel it is the right match for every defendant. Instead what the court may choose to do is select options that are explicitly prohibited by the state standards such as couples counseling, short term anger management, brief individual counseling, etc.

Another question this raises is what is the goal? You can't suggest appropriate next steps if the goal is not clear. Is the goal punishment? addressing the underlying issue? There was some discussion about how programs can be experienced as punishment regardless of whether that is their intent due to the fees paid, the hours required to attend, etc. How do we determine the goal? How do we determine what is happening? Men are not honest, victims are not safe or do not fully know what is being done or both - being way underestimated; court is afraid we're getting too carried away, but we're actually regressing.

One suggestion is that BIPs should ask for more information from parole and probation. Within the sex offender field probation tries to get as much collateral information as possible to send to the provider; but has not been happening with DV - arrest history, how many restraining orders, etc.

Perhaps we're asking the wrong question. It's not whether they should receive some kind of intervention, but what do you do after they get to the program? There's no discharge criteria, no way to determine if someone is really getting it - are they making changes, benefiting from the program. Perhaps this is where we should be focusing. *(Editor's note: This question about completion requirements was previously discussed by this group at the 7/12/2011 meeting. Please refer to those notes for more information related to that point.)*

Even after they're done, people come back through the program and admit they knew what they should do and say but it was easier to be abusive and so chose to do that instead. Most programs offer alumni free return if they want but people don't take that up.