

Responding to Domestic Violence Cases

Guidelines for the Alabama Juvenile Justice System

*Developed by the
Domestic Violence Juvenile Justice Committee*

*Sponsored by the
Alabama Coalition Against Domestic Violence*

2005

Domestic Violence Juvenile Justice Committee Members

Judge Charles Fleming, Jr., Committee Chair, *District Court Judge, Geneva County*

Judge John Davis, *Circuit Court Judge (Ret)*

Bob Maddox, *Attorney, Legal Division, Administrative Office of Courts*

Cary McMillan, *Juvenile Technology Project Manager, Administrative Office of Courts*

Tom Monroe, *Juvenile Services Manager, Administrative Office of Courts*

Tom Wright, *Chief Juvenile Probation Officer, Calhoun County*

Rob Sachar, *Family Court Coordinator, Administrative Office of Courts*

Ed Harrison, *Chief Juvenile Probation Officer, Geneva County*

Steve Hulsey, *Juvenile Probation Officer, Walker County*

Steve Wooten, *Juvenile Probation Supervisor, Montgomery County Family Court*

Tim Tyler, *Assistant District Attorney, Montgomery*

Lt. Steve Searcy, *Director of Domestic Violence Unit, Montgomery Police Department*

Jan Ingle Hulsey, *Executive Director Daybreak, Walker County*

Lisa Stephens, *Executive Director, DVIC, Alabama Coalition Against Domestic Violence*

Angelo Trimble, *Court Liaison, Alabama Coalition Against Domestic Violence*

Committee Staff

Kathy Wells, *Policy Director, Alabama Coalition Against Domestic Violence*

Jennifer Woods Arsenian, *Policy Consultant, Alabama Coalition Against Domestic Violence*

The recommendations included in this document are designed for cases involving juveniles accused of committing any type of offense and not for dependency cases. Dependency cases should involve screening by trained personnel and coordination with outside agencies; however, these responses and issues are not addressed in this document, but will be addressed in future documents specifically designed for dependency cases.

The following Guidelines are suggested to promote victim safety and enhance responses to domestic violence cases involving juveniles. These recommendations were created to provide general guidance. Some recommendations may not be appropriate for every case and are not intended to supersede the judgment and discretion of the court personnel working in the juvenile justice system.

TABLE OF CONTENTS

I.	INTRODUCTION.....	Pgs. 4-5
II.	RECOMMENDATIONS:	
	Law Enforcement.....	Pgs. 6-7
	Intake & Probation.....	Pgs. 8-11
	Juvenile Court Judges.....	Pgs. 12-17
	Responding to Victims.....	Pg. 18
	Responding to Parents	Pg. 18-19
	Continuing Care.....	Pg. 19
	Community and System Coordination.....	Pg. 20
III.	APPENDIX.....	Pgs. 21-39

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INTRODUCTION

Domestic violence affects juveniles/children in various ways. Children who witness abuse are at a greater risk of suicide, teen pregnancy, alcohol and drug use and juvenile delinquency.¹ In addition, juveniles exposed to perpetrators of domestic violence may learn that battering is an acceptable method for controlling others resulting in the commission of delinquent acts.

The juvenile justice system plays an important role in securing safety for victims and holding juvenile perpetrators accountable. Acts of domestic violence committed by juveniles warrant immediate and intensive intervention. Victim and community protection, perpetrator accountability, and rehabilitation are primary areas of concerns when working with juvenile perpetrators, juvenile victims, and others affected by domestic violence.

FACTS & STATISTICS

- Adolescent male violence against female family members is a concern of many practitioners and is reported by battered women as frequently coinciding with violence from adult partners. *Lundy Bancroft and Jay Silverman, The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics, Sage publication 2002.*
- The Journal of the American Medical Association recently published a study that revealed one in five female high school students reported physical or sexual abuse by a dating partner. *Jay G. Silverman, et al., Dating Violence Against Adolescent Girls and Associated Substance Abuse, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy and Suicidality, 286 JAMA 572 (2001).*
- Sixteen to thirty-nine percent of adolescent boys report having used violence against a dating partner. *99 Schwartz, M., O'Leary, S.G., & Kendziora, K.T. (1997). Dating aggression among high school students. Violence and Victims, 12, 295-306.*

¹ Wingfield, Katherine and Albert, Rodney. (March 2001). Breaking the Link Between Child Maltreatment and Juvenile Delinquency. *Children's Voice*. [Online]. <http://www.cwla.org/articles/cv0103breaklink.htm>

GOALS OF THE JUVENILE JUSTICE SYSTEM

Domestic violence may be an underlying cause of delinquent behavior and may pose a substantial barrier to providing rehabilitative programs for juveniles living in violent homes. In order to achieve the goals of rehabilitation and accountability, juvenile and family courts should incorporate methods for identifying, assessing, and responding to juveniles living in violent homes and/or perpetrating domestic violence.

Alabama Law : Relevant Sections

SECTION 12-15-1.1 -ALABAMA JUVENILE JUSTICE ACT; SHORT TITLE; PURPOSE CLAUSE; GOALS FOR JUVENILE COURT.

Alabama Juvenile Justice Act; short title; purpose clause; goals for juvenile court.

This chapter shall be known as the Alabama Juvenile Justice Act. The purpose of this chapter is to facilitate the care, protection, and discipline of children who come within the jurisdiction of the juvenile court, while acknowledging the responsibility of the juvenile court to preserve the public peace and security.

In furtherance of this purpose, the following goals have been established for the juvenile court:

(1) To preserve and strengthen the child's family whenever possible, including improvement of home environment.

(2) To remove the child from the custody of his or her parents only when it is judicially determined to be in his or her best interest or for the safety and protection of the public.

(3) To reunite a child with his or her parents as quickly and as safely as possible when the child has been removed from the custody of his or her parents.

(4) To secure for any child removed from parental custody the necessary treatment, care, guidance, and discipline to assist him or her in becoming a responsible productive member of society.

(5) To promote a continuum of services for children and their families from prevention to aftercare, considering wherever possible, prevention, diversion, and early intervention.

(6) To promote the use of community based alternatives as deterrents to acts of juvenile delinquency and as least restrictive dispositional alternatives.

(7) To hold a child found to be delinquent accountable for his or her actions to the extent of the child's age, education, mental and physical condition, background, and all other relevant factors and to provide a program of supervision, care, and rehabilitation, including restitution by the child to the victim of his or her delinquent acts.

(8) To achieve the foregoing goals in the least restrictive setting necessary, with a preference at all times for the preservation of the family and the integration of parental accountability and participation in treatment and counseling programs.

Judicial procedures through which these goals are accomplished will assure the parties a fair hearing where their constitutional and other statutory rights are recognized and enforced.

This chapter shall be liberally construed to the end that each child coming within the jurisdiction of the juvenile court shall receive the care, guidance, and control, preferably in his or her own home, necessary for the welfare of the child and the best interest of the state.

LAW ENFORCEMENT RECOMMENDATIONS

- 1A. Law enforcement agency domestic violence policies and protocols should be adapted to include information for responding to juvenile offenders and juvenile/child victims.**

Training, experience, and thoughtful discretion must all come to bear in the crucial decision of determining whether or not to arrest and whom to arrest. Law enforcement officers should neither be eager nor reluctant to arrest, but rather should be observant, calculating, and discriminating in determining whether or not probable cause to arrest exists and in determining the primary aggressor. A major strategy in safe guarding law enforcement agencies from liability suits is to establish policies and protocols for responding to domestic violence calls and to have all law enforcement officers trained on these policies.

- 2A. Law enforcement agencies are encouraged to provide training for all personnel in responding to domestic violence calls concerning juveniles.**

Training is a crucial component in the preparation for responding to domestic violence calls. All law enforcement officers and staff should be trained in the dynamics of domestic violence and appropriate procedures, protocols, and law enforcement agency policies. The impact and extent of domestic violence in our communities necessitates, at least, the same level of expert training as provided to law enforcement officers in other subject areas.

- 3A. Law enforcement officers should interview all parties at the domestic violence scene separately.**

Juveniles at the scene, regardless of whether or not the juvenile was the victim or committed an alleged domestic violence offense, may feel intimidated by the presence of adult perpetrators. With many calls involving juveniles who committed an alleged domestic violence offense, there also may exist an adult domestic violence perpetrator in the home. Any possible manipulation and intimidation by adult perpetrators may be avoided by interviewing juveniles separately.

- 4A. All relevant evidence in each domestic violence case should be collected, described, and documented in order to increase the effectiveness of prosecution.**

Evidence-based prosecution is a very effective method in responding to domestic violence cases. This method involves the collection of all relevant evidence, including but not limited to the following: photographs of injuries of victims and children; photographs of the offender; photographs or sketches of the scene; bloody clothing; instruments used to cause harm; and written or audio statements, including quotes, excited utterances, spontaneous statements, and a description of the person's demeanor. Evidence-based prosecution reduces the dependency of the case on merely the victim's statements and increases the likelihood of successful prosecution.

Whenever feasible, follow-up investigation is recommended to photograph the progression of injuries, assess for safety, obtain clarification, and find additional information.

5A. Law enforcement officers should identify the primary aggressor and self-defense indicators and arrest according to these determinations.

Individuals not determined to be the primary aggressor should not be arrested. Juveniles acting in self-defense or in defense of a parent or another family member should not be arrested.

Dual arrest further victimizes the victim, decreases the chances of the victim seeking future assistance, increases the possibility of future homicide by the perpetrator, lessens the ability to prosecute, and increases liability for law enforcement officers and agencies. Alabama law providing for crimes of domestic violence (§13A-6-134, Ala. Code 1975) outlines the required factors for determining the primary aggressor.

6A. Law enforcement agencies are encouraged to maintain records in domestic violence misdemeanor cases in order to assist in identifying progressively violent offenders.

7A. Law enforcement officers should provide juvenile victims and non-abusive family members with information on the scene about domestic violence.

ALABAMA LAW - RELEVANT SECTION

Section 12-15-56

Taking into custody of children generally.

A child may be taken into custody:

- (1) Pursuant to an order of the court under Sections 12-15-53 and 12-15-57;
- (2) For a delinquent act pursuant to the laws of arrest;
- (3) By a law enforcement officer having reasonable grounds to believe that the child has run away from a detention, residential, shelter or other care facility;
- (4) By a law enforcement officer having reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from the child's surroundings and that the child's immediate removal from such surroundings is necessary for the protection of the health and safety of such child;

(5) By a law enforcement officer who has reasonable grounds to believe that the child has run away from his parents, guardian or other custodian;

(6) By a law enforcement officer who has reasonable grounds to believe that the child has no parent, guardian, custodian, or other suitable person willing and able to provide supervision and care for such child;

(7) By a probation officer or representative of the Department of Human Resources, pursuant to Section 12-15-7; or

(8) By a law enforcement officer pursuant to an order of the court directing that a child be taken into custody pending hearing on allegations that the child is suffering from illness or injury or is in immediate danger from his surroundings and ordering that the child's immediate removal from such surroundings is necessary for the protection of the health and safety of such child.

INTAKE & PROBATION

Juveniles/Children from violent homes often learn that violence and abuse are acceptable behaviors and may use these tactics with other family members and in dating relationships. The best opportunity to change these behaviors is during the adolescent years before the underlying beliefs become further ingrained.

When possible, additional information should be gathered to determine the appropriate response depending on whether or not the juvenile offender is a perpetrator or a victim.

Safety plans should be developed for juvenile and adult victims.

1B. Policies and protocols should be developed regarding appropriate and effective responses to juveniles involved in domestic violence.

These policies and protocols should include guidelines for responding to juvenile domestic violence perpetrators, juvenile/child victims, and juveniles/children exposed to domestic violence. A major strategy in safeguarding juvenile justice personnel from liability is to establish and provide training on such guidelines.

2B. Juvenile Intake/Probation Officers should be aware of local community resources and referral services for juveniles perpetrating or experiencing domestic violence.

The Alabama Coalition Against Domestic Violence has eighteen member domestic violence programs to assist victims statewide.

These resources can be accessed by calling the State hotline at 1-800-650-6522 or by accessing the website at www.acadv.org. Resources regarding other services for juveniles may be accessed at the Alabama Department of Children Affairs' website, www.kids.state.al.us.

3B. If possible, cases involving domestic violence criminal offenses should be assigned to personnel trained in domestic violence.

Specialized units or personnel provide the most effective response to domestic violence cases. Personnel trained to identify, assess, and respond specifically to juvenile perpetrators and juvenile victims will have the greatest positive impact on intervening and reducing juvenile domestic violence cases.

4B. Juvenile Intake/Probation Officers should screen all delinquency and Children in need of Supervision (CHINS) cases for the existence of domestic violence in the home.

Domestic violence is often the root cause of juvenile delinquency. All delinquency and CHINS cases (not just those involving domestic violence criminal offenses) should be screened for the existence of domestic violence in the home.

5B. In cases of family violence (e.g. child abuse, sibling violence), screening tools should be included in the assessment process to determine the role of the juvenile in the family violence incident or whether or not domestic violence exists in the home.

- 6B. Juvenile or family court personnel should use screening tools to assist in identifying juveniles as primary victims or perpetrators. Many juveniles may react aggressively, or even violently, to abuse perpetrated against a parent, siblings, or themselves.**
- 7B. Domestic violence perpetrator intervention programs for juveniles, when available, should be included in supervision plans and agreements with juvenile perpetrators.**
- 8B. Juveniles/Children and adult victims who are living in violent homes should be provided with information regarding safety planning and available domestic violence victim services.**
- 9B. Information provided by the juvenile regarding the existence of domestic violence should be considered confidential and should not be disclosed without the approval of the juvenile or family court judge.**
- 10B. Literature regarding dating and domestic violence should be provided to juveniles experiencing domestic violence.**
- 11B. The juvenile probation officer should use all available records and information to develop appropriate service/supervision plans for juvenile perpetrators that accurately document any history of abuse.**
- 12B. Juvenile probation officers should consider the safety of juvenile victims as primary in making recommendations regarding time of detention, disposition, supervision arrangements, probation, or aftercare plans.**
- 13B. Juvenile probation officers should be trained in the dynamics of domestic violence, screening for domestic violence, and appropriate interventions for perpetrators and victims.**
- 14B. All detention of juveniles, regardless of the existence of domestic violence, should be in accordance with current law and policy regarding detention of juveniles, specifically Section 12-15-56 of the Code of Alabama 1975.**

Section 15-13-130 of the Code of Alabama 1975 was not intended to apply to juvenile cases or to override existing law and policy regarding detention determinations. Law enforcement officers, in accordance with Alabama law, have the authority to take a child into custody for the child's protection.

ALABAMA LAW - RELEVANT SECTIONS

SECTION 12-15-7

(Subject to the satisfaction of contingencies specified in Act 98-392) Appointment, terms of office, etc., of probation officers; designation of chief probation officer, etc.; duties of probation officers generally; powers of probation officers and representatives of Department of Human Resources as to taking into custody and placing in shelter or detention care of children generally; procedure upon taking into custody of child by probation officer or representative of Department of Human Resources generally.

(a) For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a probation officer shall perform all of the following duties:

- (1) Make investigations, reports, and recommendations to the juvenile court.
- (2) Receive and examine complaints and allegations of delinquency, in need of supervision, or dependency of a child for the purpose of considering the commencement of proceedings under this chapter.
- (3) Refer to the Department of Human Resources for investigations, reports, and recommendations those complaints and allegations of dependency or other appropriate matters and may refer to the Department of Human Resources for investigations, reports, and recommendations those complaints on children in need of supervision.
- (4) Supervise and assist a child placed on probation or in his or her protective supervision or aftercare by order of the court or other authority of law.
- (5) Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.

(6) Make predisposition studies and submit reports and recommendations to the court as required by this chapter, except as provided in subdivision (3) of this subsection.

(7) Collect and compile statistical data and file such reports as may be required by the Administrative Director of Courts pursuant to subdivision (1) of Section 12-5-10. The reports may include, but shall not be limited to, statistical data, case studies, and research materials.

(8) Collect and compile data and file reports required by the Department of Youth Services.

(9) Perform other functions as are designated by this chapter or directed by the court.

(b) For the purposes of this chapter, a probation officer or representative of the Department of Human Resources, with the approval of the court, shall have the power to take into custody and place in shelter or detention care a child who is under his or her supervision as a delinquent, in need of supervision, or dependent when the probation officer or representative of the Department of Human Resources has reasonable cause to believe that the child has violated the conditions of his or her probation, aftercare, or terms of protective supervision or that he or she may flee from the jurisdiction of the court. A probation officer does not have the powers of a law enforcement officer with respect to a person who is not on probation or otherwise under his or her supervision.

(c) If a probation officer or representative of the Department of Human Resources takes a child into custody, he or she shall proceed as provided for in Section 12-15-58.

SECTION 12-15-59

Authority and criteria for continuation of detention or shelter care of children taken into custody.

(a) Unless otherwise ordered by the court pursuant to the provisions of this chapter, a child lawfully taken into custody as an allegedly dependent or delinquent child or a child in need of supervision shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody and control of such child's parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such child, except in situations where:

- (1) The child has no parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such child;
- (2) The release of the child would present a clear and substantial threat of a serious nature to the

person or property of others where the child is alleged to be delinquent;

(3) The release of such child would present a serious threat of substantial harm to such child; or

(4) The child has a history of failing to appear for hearings before the court.

(b) The criteria for continuing the child in detention or shelter or other care as set forth in subsection (a) of this section shall govern the decisions of all persons involved in determining whether the continued detention or shelter care is warranted pending court disposition and such criteria shall be supported by clear and convincing evidence in support of the decision not to release the child.

Juvenile and Family Court Judge Recommendations

- 1C. Juvenile and family court judges should encourage ongoing training on the dynamics of domestic violence for all court staff.**

- 2C. Juvenile and family courts should have a process in place for screening all juveniles to determine whether or not they are affected by domestic violence. Ideally, this screening process should begin during intake and continue throughout the juvenile or family court system.**

- 3C. Juvenile and family courts should collaborate with local domestic violence service providers to develop procedures on how they can assist juvenile and adult victims. Courts should consider requesting assistance from domestic violence victim programs in the assessment and referral process.**

- 4C. Juvenile and family court judges should provide leadership in coordinating community resources to expand and develop services for juvenile perpetrators and juvenile victims.**

- 5C. Juvenile and family courts should develop a process for assessing the safety of juvenile and adult victims and for developing a workplace safety plan for juvenile and family court personnel.**

ALABAMA LAW- RELEVANT SECTIONS

SECTION 12-15-71 DISPOSITION OF DEPENDENT CHILDREN, DELINQUENT CHILDREN, MULTIPLE NEEDS CHILDREN, OR CHILDREN IN NEED OF SUPERVISION GENERALLY; EVALUATIVE ROLE OF CHILDREN'S SERVICES FACILITATION TEAM; PLACEMENT IN ALTERNATIVE SCHOOL.

(a) If a child is found to be dependent, the court may make any of the following orders of disposition to protect the welfare of the child:

(1) Permit the child to remain with the parents, guardian, or other custodian of the child, subject to conditions and limitations as the court may prescribe.

(2) Place the child under protective supervision as herein provided or under the supervision of the Department of Human Resources.

(3) Transfer legal custody to any of the following:

a. The Department of Human Resources; provided, that the department is equipped to care for the child.

b. A local public child-placing agency or private organization or facility willing and able to assume the education, care, and maintenance of the child and which is licensed by the Department of Human Resources or otherwise authorized by law to receive and provide care for the child.

c. A relative or other individual who, after study by the Department of Human Resources, is found by the court to be qualified to receive and care for the child.

(4) Make any other order as the court in its discretion shall deem to be for the welfare and best interests of the child.

(5) In appropriate cases, award permanent custody to the Department of Human Resources or to a licensed child-placing agency with termination of parental rights and authorization to place for adoption, without appointing a legal guardian or guardian of the person, or award temporary custody to the same without appointing a legal custodian or guardian or guardian of the person.

(6) There shall be a rebuttable presumption that children cannot be removed from custody of parents solely because of a need for emergency housing.

(b) Unless a child found dependent shall also be found to be delinquent, the child shall not be committed to or confined in an institution established for the care and rehabilitation of delinquent children or detention facility. Nothing in this subsection shall be construed to prohibit the placement of dependent children in any other residential facility as defined in subdivision (22) of Section 12-15-1.

(c) If a child is found to be delinquent or in need of supervision, the court may make any of the following orders or dispositions for the child's supervision, care, and rehabilitation:

(1) Permit the child to remain with the parents, guardian, or other custodian of the child, subject to the conditions and limitations the court may prescribe.

(2) Place the child on probation under conditions and limitations the court may prescribe.

(3) Transfer legal custody to any of the following:

a. The Department of Youth Services, with or without a commitment order to a specific institution.

b. In the case of a child in need of supervision, the Department of Youth Services, or the Department of Human Resources.

c. A local, public, or private agency, organization, or facility willing and able to assume the education, care, and maintenance of the child and which is licensed or otherwise authorized by law to receive and provide care for children.

d. A relative or other individual who, after study by the probation services, is found by the court to be qualified to receive and care for the child.

(4) Make any other order as the court in its discretion shall deem to be for the welfare and best interests of the child, including random drug

screens, assessment of fines not to exceed two hundred fifty dollars (\$250), and restitution against the parent, guardian, or child, as the court deems appropriate. Costs for court-ordered drug screening may be ordered paid for by the state out of moneys appropriated as "court costs not otherwise provided for." Any costs for drug screening recouped by order of court for drug screening shall be paid to the State General Fund. Restitution against the parent, guardian, or child shall be governed by the same principles applicable in Article 4A of Chapter 18 of Title 15 (commencing at Section 15-18-65).

(5) Direct the parent or custodian of the child to perform such reasonable acts as are deemed necessary to promote the best interest of the child.

(6) In any case where a child is adjudicated delinquent for possessing a pistol, short-barreled rifle, or short-barreled shotgun, any pistol, short-barreled rifle, or short-barreled shotgun possessed by that child is forfeited and shall be ordered to be destroyed by the court.

(d) No child by virtue of a disposition under this section shall be committed or transferred to a penal institution or other facility used for the execution of sentences of persons convicted of a crime.

(e) No child found to be in need of supervision, unless also found to be delinquent, shall be committed to or placed in an institution or facility established for the care and rehabilitation of delinquent children unless the court finds upon a further hearing that the child is not amenable to treatment or rehabilitation under any prior disposition or unless the child is again alleged to be a child in need of supervision and the court, after hearing, so finds.

(f) When a delinquent child is committable to an institution or agency for the mentally retarded or mentally ill, the court shall proceed as provided in Section 12-15-70 rather than committing to an institution or facility for the care and rehabilitation of delinquent children.

(g) Whenever the court vests legal custody in an agency or department, it shall transmit with the order copies of the clinical reports, predisposition study, and other information it has pertinent to the care and treatment of the child.

(h)(1) Regardless of the nature of the petition or allegation, when evidence is presented to the court that a child is at imminent risk of an out-of-home placement or a placement in a more restrictive environment as a result of the conditions of emotional disturbance, behavior disorder, mental retardation, mental illness, dependency, chemical dependency, education deficits, lack of supervision, delinquency, physical illness or disability, or any combination thereof, and if such conditions require the services of two or more agencies pursuant to Section 12-15-1(19), the juvenile court shall refer the child to the county children's services facilitation team for assessment and recommendations unless a current facilitation team plan is available to the court. Within 21 days of receipt of the referral, the county children's services facilitation team shall present to the court a preliminary plan of services addressing the needs of the child and the respective responsibilities of agencies composing this team. Upon receipt of these preliminary recommendations, the juvenile court may adjudge the child as a "multiple needs child" and in accordance with the county children's services facilitation team plan, unless the court finds it not in the best interest of the child, order the use of any dispositional alternative or service available for dependent or delinquent children or children-in-need-of-supervision, children who are emotionally disturbed, mentally retarded, or mentally ill, or children who need specialized educational services, or children who need health services, or any combination thereof. The county children's services facilitation team shall be responsible for developing a final service plan which shall be filed with the court. The member agencies shall be responsible for the implementation of any ordered service plan. The court may, on its own motion, or on motion of a party, a party's parent or guardian, or a member of the county or state children's services facilitation team, set additional hearings.

(2) No child, unless alleged or adjudicated delinquent, may be placed in detention facilities established primarily for delinquents.

(3) The juvenile court shall determine the appropriate custodial entity, based on the child's characteristics of behavior and type of treatment needed and in accord, as far as possible, with the provisions of this chapter for vesting legal

custody in an entity, person, or department of a child determined to be dependent, in need of supervision, delinquent, mentally ill, or mentally retarded. Nothing in this subsection, however, shall require an order of commitment for a child to (i) receive services or (ii) be placed in the custody of a state agency or department as an adjudicated multiple needs child. It shall be the duty of probation services, and the Departments of Education, Youth Services, Mental Health and Mental Retardation, Public Health, and Human Resources to provide services both at an in-home, community, or residential setting for multiple needs children when ordered by the court.

(4) The juvenile court may appoint a guardian ad litem for a multiple needs child.

(5) The provisions of subdivisions (h)(1), (2), (3), and (4) which require new or additional services beyond those already provided by the agencies are mandated only to the extent that additional funds are appropriated to the State Multiple Needs Children Fund to implement its provisions. The Departments of Human Resources, Mental Health and Mental Retardation, Youth Services, and Education along with juvenile probation services shall develop a program of services for multiple needs children. Nothing in the provisions relating to multiple needs children shall prohibit or restrict departments or agencies charged with the duty of providing services for children and families from working cooperatively and providing financial assistance to address needs which have been identified prior to a case being referred to a children's services facilitation team.

(i) When a child is placed in the custody of the Department of Human Resources, Department of Mental Health and Mental Retardation, or Department of Youth Services and when the parents or guardians have resources for child support, the juvenile court shall order child support in conformity with the child support guidelines as set out in Rule 32, Alabama Rules of Judicial Administration. The child support shall be paid to the agency in whose primary custody the child is placed and may be expended for those matters that are necessary for the welfare and well-being of those children placed in the agencies. In these cases, the court shall issue income withholding orders subject to state law. Any petition for custody of a child filed by

the Department of Human Resources shall contain a request for child support.

(j) Whenever the court commits a child to a state or local agency or orders a state or local agency to provide services or treatment for a child, that agency shall accept the child for commitment, ordered services, or treatment within seven days of the court's order. However, if compliance with the court's order within seven days would place an agency in violation of either a state statute or standard, then compliance is not required.

(k) When the court finds a juvenile to be delinquent and commits the juvenile to a juvenile detention facility, boot camp, or to the Department of Youth Services, but the juvenile detention facility, boot camp, or the Department of Youth Services is unable to take the juvenile due to a lack of space and the juvenile is enrolled in public school, unless good cause is shown that the juvenile should not attend an alternative school, the court shall order that the juvenile attend an alternative school if an alternative school is available pending availability of space at the facility.

(l) After completion of a term of commitment with the Department of Youth Services and when the juvenile is admitted back into public school, the juvenile shall be placed in an alternative school until such time when he or she meets all requirements set by the local board of education.

(m) When a court, upon holding a hearing pursuant to Section 12-15-34, orders a juvenile case to be transferred to the circuit court for criminal prosecution and the juvenile is enrolled in public school, unless good cause is shown that the juvenile should not attend an alternative school, the court shall order that the juvenile attend an alternative school if an alternative school is available until disposition of the criminal charges in the circuit court. If the criminal charges result in conviction and the juvenile is sentenced to a term of imprisonment in a penal facility, then the juvenile shall remain in an alternative school pending the serving of the sentence. After completion of the sentence or if the juvenile is convicted but not sentenced to a term of imprisonment in a penal facility, when the juvenile is admitted back into school, the juvenile shall remain in an alternative school

until such time as he or she meets the requirements set by the local board of education.

(n) The juvenile court is authorized to release the order referred to in subsections (k), (l), and (m) to the appropriate local school board where the public school or public schools in which the juvenile attempts to enroll are located. No hearing pursuant to Section 12-15-100 governing the confidentiality of juvenile records is required to release the order to the school board.

(o)(1) If a juvenile age 16 or over is enrolled in school and is charged with a crime pursuant to Section 12-15-34.1, or is charged with distribution of a controlled substance, then upon notice or knowledge of the charge, the local public school system shall assign the juvenile to an alternative school, if an alternative school is available, unless good cause is shown that the juvenile should not attend an alternative school. The decision to assign a student to an alternative school shall include a review and consideration of the exceptional status of the student pursuant to Chapter 39 of Title 16, if applicable, and any appropriate federal and state statutory and case law.

(2) Any person convicted of a crime specified in subdivision (1) and readmitted to the public schools of this state shall attend an alternative school until the juvenile meets the requirements set by the local board of education.

Section 12-15-62

Child to be released when full-time detention or shelter care not required; conditions imposed upon release; amendment of conditions or return of child to custody upon failure to conform to conditions imposed; permanency hearing.

(a) When the court finds that a child's full-time detention or shelter care is not required, the court shall order his release, and in so doing, may impose one or more of the following conditions singly or in combination:

(1) Place the child in the custody of a parent, guardian, custodian or any other person whom the court deems proper or under the supervision of an agency or organization agreeing to supervise him or her;

(2) Place restrictions on the child's travel, association or place of abode during the period of his or her release; or

(3) Impose any other condition deemed reasonably necessary and consistent with the criteria for detaining children specified in Section 12-15-59, including a condition requiring that the child return to custody as required.

(b) An order releasing a child on any conditions specified in subsection (a) of this section may at any time be amended to impose additional or different conditions of release or to return the child to custody for failure to conform to the conditions originally imposed.

(c) Within 12 months of any court order placing a child in foster care the court shall hold a permanency hearing. The Department of Human Resources shall present to the court at such hearing a permanent plan for said child. If a permanent plan is not presented to the court at this hearing there shall be a rebuttable presumption that the child should be returned to the family. This provision is intended to insure that a permanent plan is prepared by the Department of Human Resources and presented to the court within 12 months of the placement of any child in foster care. The purpose of the permanency hearing shall be to determine the permanency plan for the child which may include whether, and, if applicable, when, the child shall be (i) returned to the parent, (ii) placed for adoption wherein the Department of Human Resources shall file a petition for termination of parental rights, or (iii) referred for legal custody. The permanency hearing shall determine whether the plan will include placement in another planned permanent living arrangement in cases where the department has documented to the court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, be placed for adoption, or be placed with a fit and willing relative, or with a legal custodian. For the purposes of this subsection only, a child shall be considered to have entered foster care on the earlier of (i) the date of the first judicial finding that the child has been subjected to abuse or neglect, or (ii) that date that is 60 days after the date on which the child is removed from the home.

Section 12-15-73

Issuance of orders restraining conduct of parties to proceedings.

In any proceeding commenced under this chapter, on application of a party or the court's own motion, the court may make an order restraining the conduct of any party over whom the court has obtained jurisdiction, if:

- (1) An order of disposition of a delinquent or dependent child or a child in need of supervision has been made in a proceeding under this chapter;
- (2) The court finds that the person's conduct is or may be detrimental or harmful to the child and will tend to defeat the execution of the order of disposition made; and
- (3) Notice of the application or motion and the grounds therefore and an opportunity to be heard thereon have been given to the person against whom the order is directed.

Section 12-15-150

Power of courts exercising juvenile jurisdiction to enter protection or restraint order; when order may be entered; purpose of order.

Any court exercising juvenile jurisdiction under Chapter 15 of Title 12 may, at any time, after a dependency petition has been filed, or on an emergency basis, enter an order of protection or restraint to protect the health or safety of the child.

Section 12-15-153

Emergency ex parte orders authorized upon showing of verified evidence of abuse or neglect; evidence required; hearing required within 72 hours of issuance of order.

The court may enter a protection or restraint order on an emergency basis, without prior notice and hearing, upon a showing of verified written or oral evidence of abuse or neglect injurious to the health or safety of the child and the likelihood that such abuse or neglect will continue unless the order is issued. If an emergency order is issued, a hearing, after notice, must be held within 72 hours or the next judicial business day thereafter, to either dissolve, continue or modify the order.

Section 12-15-154

Modification, extension or termination of order after notice and hearing for person subject thereto; findings required concerning child's best interests.

After notice and opportunity for hearing afforded to a person subject to a protective or restraint order, the order may be modified or extended for a further specified period, or both, or may be terminated if the court finds that the best interests of the child will be served thereby.

Section 12-15-155

Violations of orders punished as contempt; willful conduct rendering violator responsible for court costs and attorney fees.

Any person violating an order of protection or restraint shall be punishable for contempt of court, as in other cases, and shall upon a finding of willful conduct, be responsible for the payment of court costs and attorney fees incurred by any person in seeking enforcement of the order.

VICTIM CONTACT RECOMMENDATIONS

- 1D. Law enforcement agencies should provide juvenile and adult victims with information at the scene of the alleged domestic violence regarding local domestic violence services and how to obtain protection orders from the Protection from Abuse Act without giving legal advice.
- 2D. Juvenile victims should be informed by the juvenile or family court system of their rights and any relevant conditions or restrictions placed upon the perpetrator.
- 3D. Information provided to juvenile or family court personnel by juvenile and adult victims should be kept confidential.

RECOMMENDATIONS FOR RESPONDING TO PARENTS/GUARDIANS

- 1E. Parents/Guardians should be interviewed by law enforcement officers or juvenile or family court staff separately from juvenile perpetrators and/or victims to assess the home environment adequately and the juvenile's behavior.
- 2E. Parents/Guardians who are victims should be referred to domestic violence services.
- 3E. Whenever appropriate and possible, parents/guardians who are determined by a juvenile or family court judge to be a domestic violence perpetrator should be mandated to attend a certified domestic violence intervention program.
For safety purposes, information provided to the court by the adult or juvenile victim regarding the adult perpetrator should not be disclosed to the perpetrator. In order to protect the victim from being blamed for exposing the existence of domestic violence, courts should base their determinations on information collected from a variety of sources.
- 4E. Parents/Guardians who are domestic violence perpetrators should be referred to a court referral officer, juvenile probation officer, or mental health court liaison for information on certified domestic violence intervention programs.
- 6E. Juvenile and family court judges should consider whether making a parent or guardian a party to the case will: enhance the safety of the juvenile or

parent/guardian victim; provide a positive result for the juvenile; or hold the adult perpetrator accountable.

Juvenile and family court judges should assess safety concerns of potential victim parents or guardians before making decisions regarding whether to make either parent a party to the case. Voluntary domestic violence victim services are available throughout Alabama and certified domestic violence intervention programs for perpetrators may be available in your area.

- 7E. Juvenile and family courts should consider whether or not §12-15-71(h)(1), relating to a determination if a child is a “multi-needs child”, may apply in cases involving juvenile perpetrators who are adjudicated delinquent largely due to their own exposure to domestic violence at the hands of an adult abusive household member.**

POST ADJUDICATION CONTINUING CARE

- 1F. Juvenile perpetrators should be referred to appropriate certified domestic violence intervention programs, if available and juvenile victims should be referred to domestic violence service programs, if available.**
- 2F. Juvenile perpetrators should be placed on probation or continued under supervision at least for the length of time in which the juvenile is in the perpetrator intervention program or group-counseling program.**
- 3F. Where available, juvenile perpetrators should be encouraged to participate in mentoring programs in order to increase their exposure to positive adult role models.**

COORDINATION

- 1G. Juvenile justice personnel are encouraged to develop relationships and partnerships with local domestic violence service providers.**
- 2G. Regular coordination meetings with community service providers are necessary to create comprehensive services for juveniles and parents or guardians.**
- 3G. Domestic violence intervention programs should be developed in local communities for juvenile domestic violence perpetrators.**
- 4G. Representatives from the juvenile justice system should be involved in local domestic violence councils or task forces.**
- 5G. Counties should develop protocols and procedures for handling juvenile cases where domestic violence exists in the home.**
A good method of developing collaboration among agencies and providers is to form (or become involved with existing) county or community task forces where all stakeholders (juvenile and family court judges, district attorneys, juvenile probation officers, other juvenile or family court staff, law enforcement officers, advocates, Department of Human Resource staff), are represented.
- 5G. Counties should develop protocols and procedures for handling juvenile cases where domestic violence exists in the home.**
A good method for developing collaboration among agencies and providers is to form (or become involved with existing) county or community task forces where all stakeholders (court personnel, district attorney, law enforcement officers, victims advocate, perpetrator intervention program staff, Department of Human Resources staff, health department staff, etc.) are represented.

Appendix

Ways Adult Domestic Violence Offenders Can Control an Interview - pg. 22

Evidence Collection Checklist - pg. 23

Determining Primary Aggressors - pgs. 24-25

Screening Tools - pgs. 26-31

Spotlight on Domestic Violence - pgs. 32-35

Model Juvenile Domestic Violence Courts - pgs. 36-37

Additional Resource - pgs. 38-39

Ways Adult Domestic Violence Perpetrators Can Control an Interview

A domestic violence perpetrator may make every effort to manipulate an interview. Domestic violence perpetrators may exhibit common characteristics that can signal an attempt to manipulate the interview process. The following signals should be observed from the perpetrator during the domestic violence crime scene investigation.

Domestic violence perpetrators may:

- ❑ Appear calm in the middle of an otherwise chaotic setting
- ❑ Readily provide a simplistic explanation for the incident and/or injuries that is inadequate
- ❑ Attempt to monopolize the interview process
- ❑ Discourage others from speaking freely
- ❑ Interrupt when the victims or witnesses are talking
- ❑ Use verbal and non-verbal intimidation tactics with the victim, witnesses or interviewer
- ❑ Blame the victims for the violence
- ❑ Make excuses for the domestic violence (alcohol, mental illness, anger, or bad day)
- ❑ Resist others being interviewed separately
- ❑ Attempt to sway the interviewer by being overly-friendly and familiar

EVIDENCE COLLECTION CHECKLIST

Evidence-based prosecution is a very effective method in responding to domestic violence cases. This method involves the collection of all relevant evidence including but not limited to: photographs of injuries of victims and children, photographs or sketches of the scene, bloody clothing, instruments used to cause harm, and written or audio statements, including quotes, excited utterances and spontaneous statements and a description of the person's demeanor. Evidence-based collection reduces the dependency of the case on merely the victim's statements, increases the ability of the officer to build a credible case, and enhances the likelihood of successful prosecution. Whenever feasible, follow-up investigation is recommended to photograph the progression of injuries, assess for safety and/or obtain clarification or additional information.

- | | |
|--|---|
| <ul style="list-style-type: none">• Statements documented from all parties• Excited utterances and spontaneous statements documented in quotes• Conditions under which statements are made• Appearance and demeanor of parties documented• Appearance of scene documented (written and photographed)• Injuries on all parties documented (written and photographed)• Ask victim if there are any pains or other non-visible injuries.• Supplemental Form used for documentation• Follow-up photos of injuries• Criminal history | <ul style="list-style-type: none">• Remove weapons used in incident in plain view or if consensual search is conducted• Collect torn or bloodied clothing• Medical records obtained• Prior police or incident reports included• Booking records included• Restraining orders included• Phone records obtained• 911/Emergency call tape obtained• Department of Human Resource records• Employment records• Alternate contact information gathered• Journals, letters, or list of "house rules" |
|--|---|

DETERMINATING PRIMARY AGGRESSORS

INFORMATION SHEET

Individuals who defend themselves against violence/abuse or who are determined to not be the predominate/primary aggressor should not be arrested. When both individuals are arrested at a domestic violence scene, this dual arrest further victimizes the victim, decreases the chances of the victim's seeking future assistance, increases the possibility of more serious offenses, including homicide, lessens the ability to prosecute, and increases liability for officers and departments. Alabama's statutes providing for crimes of domestic violence (§§ 13A-6-20, et seq., Ala Code 1975) outlines the factors, which should be reviewed when determining predominate/primary aggressors.

SECTION 13A-6-134 OUTLINES THE FOLLOWING CONSIDERATIONS IN DETERMINING PRIMARY AGGRESSORS:

- Prior complaints of domestic violence
- The relative severity of the injuries inflicted on each person
- The likelihood of future injury to each person
- Whether one of the persons acted in self-defense

OTHER RECOMMENDED CONSIDERATIONS:

- Body Language – who displays an aggressive stance
- History of Abuse – examine the paper trail
- Statements of neighbor and witnesses
- Excited Utterances and Spontaneous Statements
- Crime Scene – Does the scene match the statements of the parties or does the story fit the evidence?
- Evidence and Statements of Others
- Whose things are broken?
- General Violence

DEFENSIVE INJURY TIPS:

- Be aware of injuries that seem minor compared to their own injuries
- Persons using self-defense will often admit to their use of violence but may not know what to call it
- A person who is being assaulted or is about to be assaulted may realize that they are no match for the violence that is about to be used against them and will often use a weapon or object as an equalizer
- Remember that the basic human survival instinct is based on the premise of "fight or flight."

SELF-DEFENSE WOUNDS:

Injuries -Defensive Wounds versus Offensive Wounds

- Scratches to the back of hands, wrist, or arms
- Scratches to the face and neck
- Bite marks on the inside of arms (indicates possible strangulation from behind)
- Indications of hair being pulled
- Groin or "kicking" injuries
- Bite marks to the chest or neck
- Injuries caused by any hard object or weapon
- Injuries located predominately on the back, buttocks, and back of legs (indicating defensive fetal position posture)
- Injury to the top of or the back of the head
- Scratches to the back
- Eye injuries (gouging)

QUESTIONS FOR JUVENILES

This information is offered for inclusion in intake screening and other appropriate interactions with juveniles by juvenile or family court personnel.

Tips for Interviewing Juveniles:

- Ask questions in a non-judgmental manner
- Allow juveniles to answer questions at their own pace
- Inform them of why you are asking the questions and any limitations on confidentiality
- Validate the juveniles feelings
- Answer questions and provide information to juveniles as appropriate
- Reassure safety

Questions to Juveniles Concerning Their Family Environment:

- 1) How does your family handle problems?
- 2) What happens when there is an argument between the adults in your home?
- 3) What happens when the adults in your home get angry?
- 4) Are you ever afraid of the adults in your home? Of whom are you afraid? What about them makes you afraid?
- 5) What do you do when an argument breaks out between the adults in your family?
- 6) Who makes the decisions in your family?
- 7) Who do you think has the most power in your family? Why?
- 8) Who takes care of your brothers, sisters, or other children in the home?
- 9) If you could change one thing about your family, what would it be? Why?

Questions to Juvenile Concerning The Juvenile's Behavior:

- 1) How do you act when you get upset or angry?
- 2) Do you act differently if you are upset with your girlfriend or family member than when you are upset with a friend or teacher?
- 3) In a relationship, how do you want the other person to act?
- 4) When dating, who makes most of the decisions (where to go, who to hang out with, who pays)? Why?
- 5) If your girlfriend/boyfriend did something that disrespected you or upset you, how would you handle it?
- 6) Do you think it is okay to use force to get your way or when you are upset?
- 7) Have you ever used any type of force (hitting, shoving, slapping, holding down) on another family member or girlfriend/boyfriend? What made you do this?
- 8) Describe the worst fight/argument you ever had with your girlfriend/boyfriend.

External Information Assessment (For Use by Court Personnel):

Indicate any of the following factors that apply to the juvenile:

- Domestic violence indicated in the home
- Physical abuse
- Uses alcohol
- Uses other drugs _____
- Poor academic performance
- Behavior problems at school
- Excessive school absences
- History of delinquent violent behavior
- History of delinquent non-violent behavior
- Stress related medical conditions

- Depression
- Suicide ideation
- Suicide attempts
- Other mental health conditions
- Sexually active
- Isolation (few friends or social activities)
- Gang association
- Other _____

Comments:

ASSESSING VICTIMIZATION POINTS TO REMEMBER WHEN INTERVIEWING ADULT VICTIMS

Common Reactions of Victims of Domestic Violence

- Victims who do not readily respond to questioning or offers of assistance should not be viewed as being uncooperative but rather as reticent about speaking about the abuse due to safety concerns.

Fear of retaliation and fear of impact on perpetrator

- A victim may be living in constant fear of being punished for doing something that displeases the abusive partner. This fear is real. The victim has often suffered from abuse when acting against the offender's wishes.
- During an assessment interview, the victim often experiences several fears: fear of retaliation by the abuser, fear of losing the children, and general fear of what might happen next.

Minimizing and Denying the Presence, Level, and Impact of Violence

- Though they live with daily abuse, many victims may not recognize the various and complex expressions of battering.
- The victim may not recognize certain behaviors as abusive. This does not mean that the behaviors are not abusive or that the victim desires or accepts such behaviors.
- The victim may also take responsibility for the abuser's actions. The victim is NOT the cause of the domestic violence.
- Denial and minimization serve useful purposes by helping a victim get from one day (or one moment) to the next without having to consider the reality of living in a violent relationship.
- It is important to remember that the motivation for the victim's reactions and behaviors is survival. It is the victim's world with which you are dealing, and you must be willing to accept the fact that the behavior might not comport to your idealized notion of how one should react in your structured and sanitary universe.

Appropriate Responses to Victims

- The abuser's violence is not your fault.
- You do not deserve to be abused.
- I am concerned for your safety and the safety of your children.
- There are places and people who can help you.

ADULT INTERVIEW QUESTIONS

Adults who are perpetrators or suspected to be perpetrators domestic violence should be asked only general questions.

All interviews should be conducted individually and in private. Information provided should be kept confidential unless the information given poses a threat of harm to the other adult, juvenile, or family member. Victims should be provided with referral information to local domestic violence victim programs and offered an opportunity to contact the program during the interview process.

Safety of the victim must be a priority. Prior to the interview process, a safety plan process should be established to address the various concerns related to intervention in domestic violence cases. Juvenile courts should also develop a work place safety plan for juvenile court personnel. The Alabama Coalition Against Domestic Violence member programs can assist in developing safety plans and protocols.

Family Interview Questions - General (to be interviewed separately):

- 1) How are arguments handled in the home?
- 2) What happens when your (other adult spouse/partner)gets angry?
- 3) Who makes most of the decisions in the family?
- 4) Can you spend money without checking with your partner?
- 5) Do you spend time with friends or co-workers?
- 6) How are the children disciplined?

Questions for (suspected) Victim Parent

- 1) Has your partner/spouse ever embarrassed you in public?
- 2) Do you feel free to spend money or time with your friends, family, etc. without asking your partner for permission?
- 3) Has your partner/spouse ever thrown anything when he/she got mad? Was it thrown at you?
- 4) Has your partner/spouse ever threatened to hurt you, the children, or other members of the family?
- 5) Are you afraid of your partner/spouse?
- 6) Has your partner/spouse ever used force during an argument (slapping, hitting, punching, pulling hair, and holding you down)?

- 7) Have you had many injuries? Did your partner/spouse cause those injuries?
- 8) Have you ever left your partner/spouse before?
- 9) If yes, what was his/her reaction?
- 10) Are you concerned about what your partner/spouse will do if the court orders him/her into a program? Why?
- 11) Are you afraid to go home with your partner/spouse today?

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Spotlight on: Juvenile Perpetrators of Domestic Violence

by Jennifer Henderson¹

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Recent years have witnessed a groundswell of interest in domestic violence. Public service announcements, education campaigns, and popular media have attracted considerable attention. Statistics and research findings are abundant in the professional literature. Despite the resources and attention that are committed to this issue, however, comparatively little is directed to juveniles as the perpetrators of domestic violence.

For purposes of this article, domestic violence is defined to include two types of offenses: teen dating violence and family violence. Much of what we have learned about the dynamics of domestic violence, as well as effective interventions and prevention strategies, apply equally to cases involving adult and juvenile offenders. This article reviews several key principles having particular application to the juvenile perpetrator, and offers specific strategies to address issues unique to these forms of domestic violence committed by juveniles.

Dynamics of Domestic Violence

The Power and Control Wheel, developed by the Domestic Abuse Intervention Project in Duluth Minnesota, is a useful tool for understanding how certain behaviors contribute to the cyclical nature of domestic violence and the environment of fear it engenders.² It is a conceptual way of looking at some of the tactics perpetrators use and how they work together. Battering is not an isolated or accidental behavior. Although this framework was designed with adult perpetrators in mind, juvenile perpetrators use these same behaviors, with some variations that are described below, and prosecutors must respond accordingly.

Teen Dating Violence

Violent relationships often begin in adolescence. Studies suggest that between 25 and 40 percent of teens have been assaulted by dates.³ According to the 1997 Massachusetts Youth Risk Behavior Survey, 20 percent of high school girls and 7 percent of high school boys had been victims of teen dating violence.⁴ Abuse frequently escalates during pregnancy;⁵ more than 70 percent of pregnant or parenting teenagers are beaten by their boyfriends.⁶ Violent relationships in adolescence can have serious ramifications for victims: many will continue to be abused in their adult relationships⁷ and are at higher risk for substance abuse, eating disorders, risky sexual behavior, and suicide.⁸

Between one-fourth and one-third of adolescent abusers reported instrumental uses of violence, i.e., to “intimidate, frighten, or force the other person to give me something.”⁹ Intimidation, coercion, and threats are behaviors that are found in the Power and Control Wheel. Isolation from one’s social circle is another abusive behavior that may be especially effective in teen dating relationships where the peer plays such a pivotal role. Insults and other forms of emotional abuse are likewise powerful acts commonly found in violent teen relationships.

The school environment has unique characteristics that may inhibit victims from reporting abuse. Victims may attend classes with the perpetrators and experience intense pressure to recant. As noted above, ostracism from the social group is a particularly powerful form of retribution among adolescents.

Family Violence

Juveniles commit family violence when they commit an act against a parent, caretaker or sibling “intended to cause physical, psychological or financial damage to gain power and control.”¹⁰ One source estimates that as many as 18 percent of all violent crimes committed by juveniles could be classified as family violence.¹¹

Because control is the motivating factor, the behaviors of juveniles who perpetrate family violence are indicative of abuse, not some stereotypical teenage rebellion. Like their adult counterparts, juvenile abusers “victimize the people they see as vulnerable.”¹²

Intrafamilial victims of juvenile abusers are extremely reluctant to come forward, for many reasons. Parents, in particular, have a natural instinct to protect their children and may choose to endure abuse directed toward them or other family members rather than see a child get in trouble with the juvenile justice system. Parents are also inhibited by shame, secrecy, and fears of retribution, whether by the juvenile or by the courts, which may order other children removed from their care.

Like other victims of domestic violence, family members simply want the abusive behavior to stop, ideally without formal justice system intervention. Once an incident is reported, victims may attempt to discourage responding officers from doing anything more than counseling the juvenile. Investigators and prosecutors who can identify abusive behaviors by juveniles as indicative of a pattern of family violence are better situated to fashion appropriate dispositions and to prevent future violence. Prosecutors should charge these crimes under their state’s domestic violence statute, if applicable, or other appropriate offense category.

Prevention, Programs, and Solutions

The social, physical, and psychological consequences of domestic violence perpetrated by juveniles can be devastating, both for victims and for the perpetrators themselves, since abusive behaviors are likely to continue into adulthood. Prevention, education, and early intervention are key components of a comprehensive strategy to eradicate this serious problem.

Prevention and education programs typically are located in schools. In Massachusetts, for example, the state Department of Education has established Updated Guidelines for Schools on Addressing Teen Dating Violence. These guidelines encompass a written policy chart detailing certain behaviors, their consequences, and the persons involved. They also include a restraining order checklist, teen safety plan, and a model for implementation. In 2000, 50 schools in Massachusetts received funds to implement these guidelines.¹³ Other programs, such as the Teen Dating Violence Prevention Program (TDVP) in Houston, also provide education to teens through partnerships with area shelters, local universities, or other women’s programs. The TDVP is curriculum based, ranging from one hour presentations to a semester long program. Contact information for these examples are available through APRI.

Many police departments around the country have established protocols for investigating domestic violence. These protocols should be reviewed to assure their applicability to juvenile offenders. In San Diego, for example, the language throughout the Domestic Violence Protocol does not exclude juvenile perpetrators. The protocol also has a section specifically pertaining to teen dating violence.

Santa Clara County, California, established a Juvenile Delinquency Domestic and Family Violence Court to encourage a coordinated community response to these problems. The Court mobilizes a wide range of specialized probation services, including comprehensive investigation, intensive supervision, age-appropriate violence prevention/batterers intervention programs, victim advocacy, referral and support services, and domestic and family violence prevention education programming.¹⁴

Batterers treatment programs for juvenile offenders should mirror their counterparts that serve adult perpetrators. These programs share six basic principles:¹⁵

1. Each person is responsible for his own behavior. The victim cannot cause the violence or eliminate it.
2. Provocation does not justify violence.
3. Violence is a choice – a dysfunctional, destructive choice with negative consequences.
4. Nonviolent choices exist as appropriate alternatives.
5. Violence is learned. Perpetrators can also learn to be nonviolent.
6. Violence impacts the whole family. Children learn that violence is an acceptable choice.

In addition to batterer's treatment, juvenile offenders may benefit from other interventions, such as anger management, drug/alcohol therapy, family counseling, or individual therapy. Prosecutors must recognize, however, that none of the other interventions can substitute for treatment that is explicitly designed to confront and eliminate battering behaviors.

The Prosecutor's Role

Prosecutors can and should play an integral role in developing and implementing protocols for investigating and prosecuting domestic violence cases involving juvenile perpetrators. Working with local law enforcement on protocols, as was the case in the San Diego example mentioned above, ensures all parties understand the applicable laws, opens lines of communication, and creates the opportunity for both police and the prosecutor to work together toward the common goal of addressing this violence and preventing future violence.

Prosecutors can be vigilant to charge juvenile domestic violence offenses for what they are. By documenting "dating violence" or "family violence" in all reports, case files, and court proceedings, prosecutors underscore the seriousness of this violence and lay the foundation for appropriate case disposition.

Like their counterparts in adult criminal court, juvenile court prosecutors often must contend with reluctant or recanting victims, or indeed, no victims at all. Often the hearsay rules and exceptions, as well as other rules of evidence, such as Rule 404(b), can be used to build a strong case in chief without a cooperative victim. Prosecutors should also maximize their use of photographs, medical information, and other witnesses.

In preparing dispositional recommendations, prosecutors should consider the wide range of treatment alternatives described above. Frequently, these options are offered among an offender's probationary requirements. Some jurisdictions have first-time offense deferred sentencing statutes that allow dismissal of charges upon the successful completion of a probationary period and probation requirements.¹⁶ Even where this option is not available, probation can be an effective way to hold juvenile offenders accountable for their behavior.

Prosecutors also have opportunities to educate the public and other personnel in the juvenile justice system. The dynamics of juvenile domestic violence can be discussed in the context of jury voir dire (if a jury trial is available for juveniles) or arguments and questioning of witnesses during a bench trial. Countywide trainings, in-service training, and community gatherings offer additional

opportunities to reach judges, other court workers, police officers, treatment professionals, and the general public.

Conclusion

Dating violence and family violence committed by juveniles are serious crimes and serious harbingers of future violent behavior. By recognizing these behaviors among adolescents, treating them seriously within the juvenile justice system, and marshaling age-appropriate resources for juvenile offenders, prosecutors stand a far better chance of halting the trajectory of violence.

¹ Staff Attorney, APRI's National Juvenile Justice Prosecution Center

² The Power and Control Wheel can be found at www.duluth-model.org/daipmain.htm

³ Houston Area Women's Center, Teen Dating Violence Website, hereafter, HAWC, www.hawc.org/topics/teen/facts.html

⁴ Massachusetts Department of Education's Updated Guidelines for Schools on Addressing Teen Dating Violence, www.doe.mass.edu/lss.tdv/tdv1.html

⁵ HAWC; See also Helping Victims of Teen Dating Violence, Connecticut Clearinghouse Fact Sheet, hereafter Connecticut Fact Sheet, www.ctclearinghouse.org/fteendt.htm and the American Bar Association Commission on Domestic Violence Statistics, www.abanet.org/domviol.stats.html

⁶ Id., citing the Bureau of Justice Statistics that "95% of the reported incidents of assaults in relationships are committed by males."

⁷ National Crime Prevention Council, "Crime Prevention Program Ideas: Combating Teen Dating Violence"

⁸ Silverman, Jay G., Raj, Anita, Mucci, Lorelei A., Hathaway, Jeanne E., Dating Violence Against Adolescent Girls and Associated Substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy, and Suicidality, *Journal of the American Medical Association*, vol. 286, no. 5, August 1, 2001

⁹ The American Bar Association Commission on Domestic Violence Statistics, citing Brustin, S., Legal Response to Teen Dating Violence, *Family Law Quarterly*, vol. 29, no. 2, 335 (Summer 1995)

¹⁰ Cottrell, Barbara, Parent Abuse: The Abuse of Parents by Their Teenage Children, page 3

¹¹ Snyder, Howard N., Juvenile Arrests 1998, *Juvenile Justice Bulletin OJJDP*, December 1999, page 5

¹² Cottrell, Parent Abuse, page 10

¹³ Massachusetts Department of Education's Updated Guidelines for Schools on Addressing Teen Dating Violence, Background section, www.doe.mass.edu/lss.tdv/tdv1.html.

¹⁴ www.santaclaracounty.org/probation.Juvenile.html

¹⁵ Center on Crime, Community, and Culture, citing Tolman and Edleson, *Intervention for Men Who Batter: A Review of Research* (1995)

¹⁶ See Michigan Compiled Laws 769.4a

Model Juvenile Domestic Violence Courts

HIGHLIGHTS

PROGRAM ONE

This information was adapted from “The Santa Clara County Juvenile Domestic and Family Violence Court” , by Inger Sagatun-Edwards, Eugene M. Hyman, Tracy Lafontaine & Erin Nelson-Serrano, Journal of the Center for Families, Children & The Courts (2003).

Santa Clara County Juvenile Domestic and Family Violence Court Program

The Santa Clara County Juvenile Domestic and Family Violence Court is a collaborative response to family and domestic violence in Santa Clara County. The court supervises approximately 125 cases. In 1997, the Santa Clara County Juvenile Probation Department established its first designated domestic violence caseload and developed domestic violence protocols.

Program Components

The Santa Clara County Juvenile Domestic and Family Violence Court program consists of these components:

Referral and assessment. Domestic violence cases are identified at the intake process by specially trained probation officers who conduct detailed risk assessments.

Specialized investigation and judicial procedures. The court, the district attorney’s office, and the public defender’s office have established special units and procedures to handle juvenile domestic violence cases.

Probation conditions and offender programs. The teen batterer program, a major component of the court-based intervention, is supplemented by substance abuse programs, mental health services, and other counseling as needed.

Victim services and advocacy. Victims are offered direct and confidential victim advocacy, referrals to support groups and other community resources, legal assistance, a support person at court, and assistance with restitution claims.

Intensive probation and supervision procedures. In addition to periodic reviews by the court, batterers are subject to intensive probation supervision that stresses accountability and competency skills.

Probation orders. Santa Clara County also uses specialized protection orders in juvenile cases.

PROGRAM TWO

Material adapted from “Why Juvenile Courts Should Address Family Violence: Promising Practices To Improve Intervention Outcomes”, by Sara M. Buel, 53 *Juvenile and Family Court Journal* 1 (Spring 2002).

King County, Washington

The Department of Judicial Administration and the Prosecuting Attorney’s office created the “Step-Up Program” in their juvenile court. This is a specialized domestic violence/sexual assault unit that specializes in protecting victims while offering services to hold juvenile perpetrators accountable. This program addresses 13-17 year olds who batter their parents or dating partners. An intervention program is offered for juvenile batterers (modeled on the Duluth Program) with a dating violence course (focusing on equality) and another course for family violence (focusing on parental authority and respect).

The following were identified by Buel as components of a comprehensive program:

- Community Collaboration
- Intake and Screening
- Specialized Culturally Sensitive
Juvenile Batterer Intervention Program
- Protection Orders for Juvenile Victims
- Alternatives to Mediation

ADDITIONAL RESOURCES

IMMIGRATION BENCHBOOK FOR JUVENILE AND FAMILY COURT JUDGES

*Written by Sally Kinoshita and Katherine Brady, Immigrant Legal Resource Center, January 2005
Immigration Issues Involving Juveniles*

“This benchbook presents a summary of the aspects of immigration law relevant to juvenile and family courts. It provides critical basic information, and also should enable bench staff, advocates and others to flag issues. If more in-depth information is required, readers should refer to Chapter 11, a listing of specialized books and manuals, technical assistance, websites, and other resources.” 1663 Mission Street, Suite 602 San Francisco, California 94103 Phone: 415.255.9499 Fax: 415.255.9792
Email ilrc@ilrc.org, Website, www.ilrc.org.

Youth Exposed to Domestic Violence: A Handbook for the Juvenile Justice System to Enhance Assessment and Intervention Strategies for Youth from Violent Homes

Developed by Linda L. Baker, Peter G. Jaffe, Centre for Children & Families in the Justice System & Family Violence Department of the National Council of Juvenile and Family Court Judges

“How can this Handbook Help? This handbook contains information that will help you: learn about domestic violence and its impact on adolescents; learn about evaluating risk and safety planning for victims of domestic violence; learn about coordinated justice responses to domestic violence and the role of juvenile custody programs and probation; learn about risk assessment and reduction with adolescent perpetrators of intimate partners and family violence; learn about promising practices for adolescent perpetrators of intimate partners and family violence; learn about resources on domestic violence for adolescent victims and perpetrators.”

How to Order: This handbook can be obtained from the Centre for Children & Families in the Justice System website: www.lfcc.on.ca

The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics

Written by Lundy Bancroft and Jay Silverman, a Sage publication 2002.

The Batterer as Parent - takes the reader inside of homes affected by domestic violence, imparting an understanding of the atmosphere that battering men create for the children who live with them. Bancroft and Silverman show how partner abuse affects each relationship in a family, and explains how children's emotional recovery is inextricably linked to the healing and empowerment of their mothers. The authors cover the important but often-overlooked area of the post-separation parenting behaviors of men who batter, including their use of custody litigation as a tool of abuse. Readers also are guided in evaluating change in the parenting of men who batter, assessing risk to children from unsupervised visitation, and supporting the emotional recovery of children. Although the book is written primarily for professionals, its accessible style makes it engaging and useful for abused mothers, students in social work and counseling programs, and anyone else wishing to assist children exposed to battering

Available through your local bookstore, or at any of the following: (800) 818-SAGE

ALABAMA COALITION AGAINST DOMESTIC VIOLENCE

P.O. Box 4762, Montgomery, Alabama 36101

Phone: 334-832-4842, Fax: 334-832-4803

Website: www.acadv.org

NATIONAL RESOURCE CENTER ON DOMESTIC VIOLENCE

6400 Flank Drive, Suite 1300, Harrisburg PA 17112-2778717

Phone: 800-537-2238; Fax: 717-545-9456; TTY: 800-553-2508

VIOLENCE AGAINST WOMEN OFFICE (VAWO)

810 7th Street, N.W. Washington, DC 20531

Phone: (202)307-6026; Fax: (202)307-3911

Website: www.ojp.usdoj.gov/vawo

FAMILY VIOLENCE DEPARTMENT OF THE NATIONAL COUNCIL OF JUVENILE AND FAMILY

COURT JUDGES (NCJFCJ)

P.O. Box 8970, Reno, NV 89507

Phone: 1-800-527-3223

Website: www.dvlawsearch.com

NATIONAL CENTER for CHILDREN EXPOSED TO VIOLENCE (NCCEV)

Child Study Center, Yale University School of Medicine, 230 South Frontage Road, P.O. Box 207900, New Haven, CT 06520-7900

Phone: 1-877-49-NCCEV (62238)

Website: www.nccev.org/us

NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE (NCJRS)

Website: <http://virlib.ncjrs.org/juvenilejustice.asp>