



LESSONS LEARNED

About Supervising Domestic Violence Offenders on Probation

Before retiring as Chief Probation Officer from Quincy, Massachusetts, in 1998, my mid-sized (24 officers) department was preoccupied with developing a program of specialized caseloads to supervise an increasing number of men convicted of domestic violence, mostly for assault and battery charges and violations of restraining orders. Both of these are misdemeanor offenses in Massachusetts, punishable by up to two-and-one-half years in the county jail. Probated sentences for these offenders are usually between one and two years.

When our agency began looking at these cases in the mid-1980s, we naively calculated we had about 40 domestic violence offenders in our overall caseload of several thousand. One intrepid officer agreed to handle all of them. Of course, with better intake and increasing arrests and prosecution for domestic violence, by the time I left the department, a half dozen probation officers supervised more than 400 domestic violence probationers.

There were several issues we tackled with varying degrees of success. In the hope that our experiences may be of help to others, following is a brief synopsis of what we found to be key issues and how we dealt with them.

Specialized Caseloads

Domestic violence offenders present unique challenges for probation supervision. We decided to concentrate these probationers in specialized caseloads with probation officers who were interested in domestic violence, pursued special training, and developed expertise in supervising these offenders. Not all probation officers are keen on, nor are they especially suited for, supervising domestic violence probationers. Some officers did, nevertheless, volunteer for these caseloads.

Domestic violence offenders are good at presenting themselves as victims, and probation officers must be wary of being manipulated.

BY ANDREW KLEIN

Often, these probationers come from abusive families and have had unfortunate experiences, but officers cannot allow themselves to be derailed from their primary goals of promoting victim safety and holding probationers accountable for their behavior. Domestic violence behavior also evokes personal issues for some officers, either because they were victimized or were abusive themselves. We had to be watchful that probation officers did not knowingly or inadvertently collude with domestic violence probationers and thereby justify criminal behavior or place victims at greater risk.

Besides promoting safety for the victims, there are also safety concerns for officers with this population. Domestic violence probationers can be intimidating, using tactics such as physical intimidation and threats to sue everyone. At least one of our female officers was stalked by her probationer who was on probation — for stalking. He was good at it, too, as she had recently moved out of the county and was not in the phone book.

All of these issues require that probation officers have special training and expertise to supervise domestic violence offenders. Inevitably, however, issues of unfairness in workload arose, as domestic violence caseloads are often much more involved and time consuming than other caseloads, and they can produce a high burnout rate as well. We also learned that no matter how hard we struggled to achieve an optimal caseload size, we had to accommodate the number of probationers assigned to the caseloads. We learned to move on to issues over which we had some control.

An unanticipated problem of specialized caseloads is that serious domestic violence cases often are assigned to nondomestic violence caseloads. The offenders may come to probation as drunk driving, drug, pet or child abuse, or even property crime cases. A New Mexico domestic homicide fatality study found that the second most common charge against men who murdered their partners, after a charge of domestic violence, was drunk driving. In other Massachusetts courts, as reported by the media, probationers on active supervision committed at least three domestic homicides. Only one of these offenders was being supervised specifically for domestic violence. The others were on probation for animal cruelty and a sexual assault on a stranger. We learned that all officers, not just those supervising the specialized caseloads, had to be trained to recognize and respond to domestic violence.

BATTERER INTERVENTION PROGRAMS

When we started, batterer programs were called “batterer treatment.” The name has changed but not the role confusion. It took us a long time to figure out how we should relate to the increasing percentage of probationers ordered into various 40-hour batterer programs certified by the state’s department of public health.

What we learned is that these programs serve a vital function, but it may not be the function most people think the programs play. They usually do not stop domestic violence offenders from battering. Often, brighter, sociopathic probationers do well in these programs,

parroting back perfectly what they are supposed to say. Some even perfect their non-violent abuse. We had probationers earnestly report that, thanks to the program, they did not have to abuse their victims physically to get their way.

What the programs do, if probation pays attention and is backed up by prosecutors and the court, is cull out the overtly noncompliant probationers — those who do not enroll or attend the program, are disruptive, or refuse to participate. While determining the treatment effect of batterer programs remains problematic, the research generally concurs that failure in batterer programs is a very good predictor of subsequent reabuse. Therefore, by taking immediate action against the program failures, probation has a chance to act before new abuse occurs. That is no small accomplishment.

ALCOHOL AND OTHER SUBSTANCE ABUSE

We learned not to get entangled in the argument of whether alcohol and drugs cause domestic abuse. By the time these offenders reach probation caseloads, our job is to keep them sober. They are simply too dangerous to be allowed to drink and use drugs. We imposed conditions of abstinence on almost all domestic violence cases. Our weekly random substance abuse testing program found that abusers tested positive the same percentage of time as our repeat drunk drivers and drug addicts who were also tested weekly. A little over 50 percent of tests were positive, including no-shows that were treated as positives.

An unintended but welcomed consequence of the conditions for abstinence was that it proved very helpful in prosecuting probation violations without relying on the victim’s testimony. For example, we would get calls from victims who reported new abuse, were fearful of calling police or testifying in court, but wanted protection. The probation officer would ask them if the probationer had been drinking or using drugs. Often, the answer was yes. We would then call the probationer in for a test, and most often the test would be positive for use. We could then bring him back to court for revocation without having to pressure the victim or ask her to endanger herself by testifying. Of course, our success depended upon judges understanding the importance of enforcing abstinence in these cases. Another benefit was that when probationers complained that they could not afford to pay family support or treatment fees, we reminded them of how much money we saved them in alcohol and drug costs.

DEALING WITH VICTIMS

One reason not all probation officers are suited for or eager to supervise these cases is the necessary involvement with and responsibility to victims. To promote victim safety, probation officers have to know who victims are and contact them regularly. If the probationer has moved on to a new relationship, new intimate partners should be identified also. Probation has a duty to warn the next partner. We know from a Massachusetts probation study of abusers who had restraining orders taken out against them that 25 percent

had up to six subsequent orders taken out against them by as many different victims in as many subsequent years. We were lucky. We learned about and quickly adopted a great probation condition from Lane County Parole and Probation in Eugene, Oregon, called Intimate Partner Disclosure. It requires probationers to inform us of all new partners and to inform their new partners about why they are on probation.

There is no substitute for direct victim/partner contact by probation officers. We learned that most victims are not engaged in a specific victim services program (and often do not want to be), although we encouraged such involvement. Police and prosecution-based victim advocates ended their involvement when the cases were tried and disposed. The probation officer then, by default, became a primary resource for the victim.

Some victims wanted only minimal contact because they felt things were fine or they had successfully left the probationer. Others were hostile. Still others exhibited many needs, were very afraid, and wanted significant intervention services. We added several victim liaisons to our probation staff to be more responsive to victims, to help them understand that probation supervision and batterer programs did not guarantee their and their children's safety, to offer referrals and support, and to inform them of court outcomes, conditions of probation, and probation activities.

The importance of periodic contact to check in on victims cannot be overemphasized. All victim contacts must be recorded, because probation needs to be able to document its actions with victims. We informed victims that as officers of the court we could not withhold information from the court (and what was said in court could be heard by the defendant). Victims did not seem deterred from communicating with us. We had a much higher rate of victim participation in revocation hearings around charges of new abuse than the prosecutor did. Of course, probation hearings are probably less intimidating for victims.

ENFORCEMENT

We came to expect that the majority of domestic violence probationers would return to court for technical violations or new abuse. One reason for the quantity of violation hearings was that we learned it was crucial to respond to new abuse, even if it did not result in arrest and criminal charges or had not yet been tried in court. We brought cases forward for violation hearings based on victim reports, new restraining orders issued in our court or any other court, and new arrests for anything. We also learned that by responding aggressively to missed or positive drug tests and failure to attend or participate in batterer programs, we could get the court to jail probationers or impose other conditions necessary to protect victims before, not after, new abuse occurred. (In Massachusetts, probation officers present violation cases directly to the court. The prosecutor does not have to be involved in these hearings.)

In fact, we learned that revocation hearings themselves were an integral part of the supervision process, not an indication of probation department failure. They were at least as important as batterer program participation for getting probationers' attention and holding them accountable.

We had so many revocation hearings that we got the court to designate a specific session once a week just for probation hearings. The special session had an unintended consequence that proved extremely helpful. The same judge tended to preside at that session, which resulted in predictable, consistent responses to domestic violence probationers. Judges who began presiding over the special sessions with little knowledge or experience rapidly developed expertise in domestic violence issues.

Having three dozen cases for revocation hearings each week, we learned to place first on the docket the two or three cases we were pretty sure were going to be revoked. Seeing these revocations had a positive effect on subsequent probationers who became increasingly interested in working

out their cases before they were called before the judge. Appropriate use of revocations helped us promote victim safety and offender accountability by enforcing conditions of probation, giving victims a period of safety and respite, and confining dangerous offenders who pose serious risks to their victims.

WARRANT SERVICE

Increasing the number of revocation hearings also multiplied significantly the number of probation warrants. Although police made initial efforts to serve these warrants, most probationers were not apprehended until they were arrested again, usually for a new act of domestic violence. To protect victims, we created a partnership with police. Police agreed to assign the domestic violence warrants priority for service, and we placed these warrants in colored envelopes to keep them readily visible. We also conducted regular joint warrant sweeps. Police gave us bulletproof vests; we gave them vital intelligence about where the probationers were likely to be.

We obtained cooperation from the local daily newspaper to run pictures of the "most wanted" probation violators every week or so. Twenty-five percent of the violators turned themselves in after their pictures were printed. In many cases, the partners, who had been afraid to call before the pictures were published, gave us information about probationers' whereabouts. In other cases, tips from the community helped us locate the offenders. All told, we had an apprehension rate greater than 80 percent.

CONCLUSIONS

All in all, our most difficult challenge was not the probationers or their victims; it was getting the rest of the criminal justice system to cooperate. Despite the manifest danger posed by many domestic violence perpetrators, the criminal justice system insisted on treating them as simple misdemeanants by repeatedly placing them on an underfunded probation system. However, the greatest benefit of supervising a domestic violence caseload was the gratitude of victims who told us we saved their lives or how their children's nightmares were less frequent. □

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