

# Family Court Approaches to Intimate Partner Violence and Abuse: Stakeholder Perceptions and Implications for Systemic Change

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This project would not have been possible without the generous assistance of the following professionals. The authors wish to thank them for their contributions.

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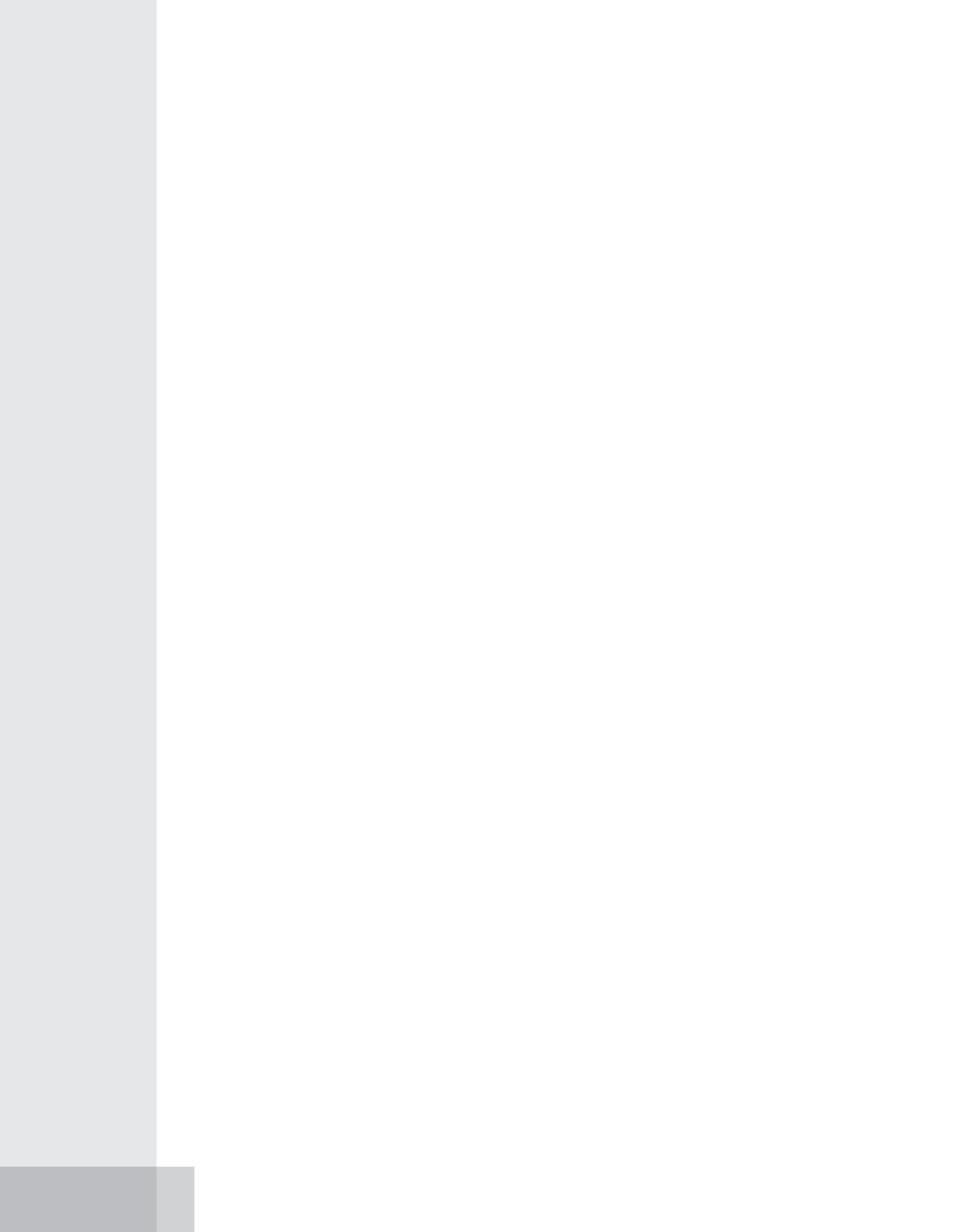
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## **ACKNOWLEDGMENTS (IN ALPHABETICAL ORDER)**

Allison Bauer, The Boston Foundation  
Ralph Calderaro, (retired), Massachusetts Disabled Persons Protection Commission  
Paula Carey, Chief Justice, Massachusetts Probate and Family Court  
Charlene Depner, Center for Families, Children and Courts, California Administrative Office of the Courts  
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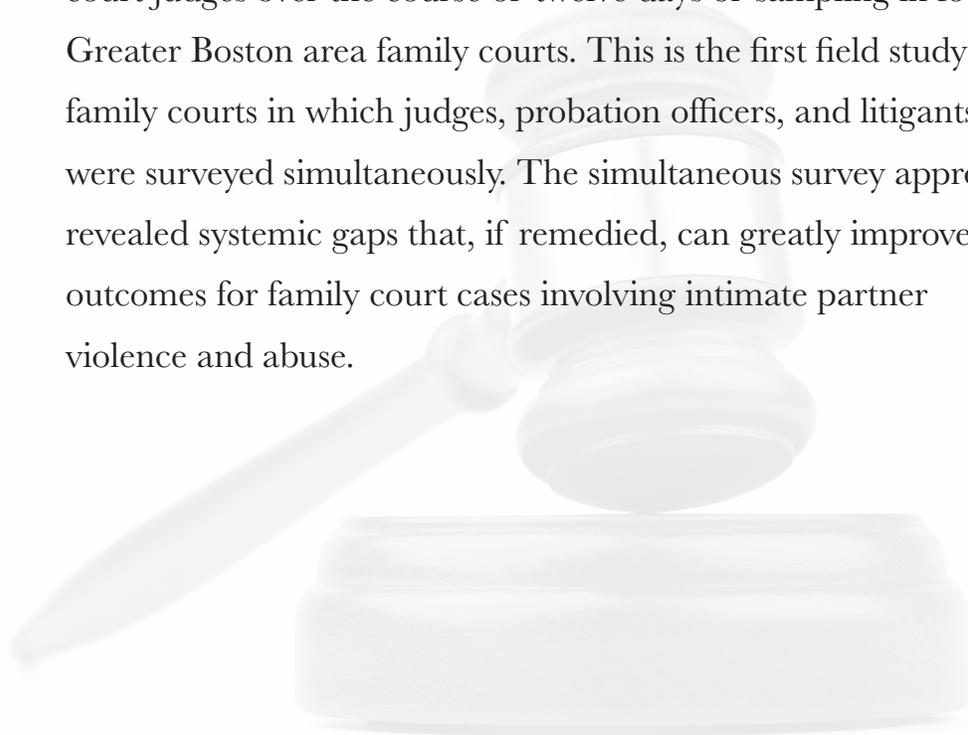
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## Project Description

The Family Court Snapshot Data Collection Project began in 2008 as a first attempt to conduct a data-driven study of how often family courts see intimate partner violence and abuse in family court cases, how the courts handle these cases, how often children are involved in these cases, and whether biases or other social phenomena interfere with the courts' ability to adjudicate these cases. Researchers from the Wellesley Centers for Women, in conjunction with the office of the Chief Justice of the Massachusetts Probate and Family Court and a multi-disciplinary advisory group, composed three separate survey instruments for family court litigants, judges, and probation officers. The survey research was conducted in two phases: a pilot phase in 2009 and a final phase in 2010. The researchers ultimately collected usable data from 212 litigants, 44 probation officers, and ten family court judges over the course of twelve days of sampling in four Greater Boston area family courts. This is the first field study of family courts in which judges, probation officers, and litigants were surveyed simultaneously. The simultaneous survey approach revealed systemic gaps that, if remedied, can greatly improve outcomes for family court cases involving intimate partner violence and abuse.



# Intimate Partner Violence and Abuse, a Public Safety Crisis in Massachusetts

Intimate Partner Violence and Abuse (IPV/A)<sup>1</sup> remains a persistent public safety and public health problem in Massachusetts. According to the 2010 National Intimate Partner and Sexual Violence Survey conducted by the Centers for Disease Control (CDC), one in four Massachusetts women experiences violence that causes her to be afraid or concerned for her safety.<sup>2</sup> Lieutenant Governor Timothy Murray, chair of the Governor's Council to Address Sexual Assault and Domestic Violence, called these statistics "heartbreaking" and reminded the larger public that, "That's one in four of our mothers, sisters, daughters, partners or female friends."<sup>3</sup> Others have described the incidence of IPV/A as having reached epidemic proportions in the state,<sup>4</sup> a troubling assessment given that Governor William Weld declared an epidemic of IPV/A in 1994.<sup>5</sup> Indeed, fatalities due to IPV/A in recent years indicate that the Commonwealth has made little, if any, headway in combatting this problem. In 2007, IPV/A-related homicides in Massachusetts went up by fifty percent over the prior year,<sup>6</sup> prompting Governor Deval Patrick to declare a public health emergency. The governor cited economic anxiety and a lack of coordination among agencies, government, and other groups as primary causes of the crisis.<sup>7</sup> With the exception of the 2007 crisis, the annual number of IPV/A-related deaths has ranged between a low of 18 in 2005 and a high of 33 in 2010.<sup>8</sup> Regrettably, the 24 IPV/A-related deaths in 2011<sup>9</sup> (the most recent year with complete data) is on the high end of this range, suggesting that neither economic conditions, nor governmental approaches, nor other societal causes have improved enough to make a dent in the negative trend.<sup>10</sup> This ongoing state of crisis demands a closer look at the competency of the Massachusetts IPV/A response system.

The U.S. has become more adept at assisting victims of IPV/A since the issue first gained widespread attention in 1994 when the Violence Against Women Act was adopted and began funding research and protection-related services. But preventing violence is still an elusive goal. Nationally, thirty percent of female homicide victims were killed by an intimate partner<sup>11</sup> and studies show<sup>12</sup> that the majority of these victims never accessed first-responder public agencies such as the police or courts, often because of fear of arrest (for themselves and/or for their partner), fear of retaliation from their partners, or fear of dire financial consequences.<sup>13</sup> In Massachusetts domestic violence service providers often complain that victims of IPV/A have little awareness of the services that are available to them.

At the same time, IPV/A victims who successfully overcome barriers<sup>14</sup> to accessing public services consistently complain that police and courts do little to address the core issues that keep them and their children at risk from the abuser. "Confusion,

frustration, and anxiety often govern women’s experiences with court, and many women simply drop out midway through the process due to emotional or tangible barriers.” The widespread dissatisfaction is due in part to the fact that victims who seek help from the justice system often face multiple actions in different kinds of courts that can result in conflicting court orders.<sup>15</sup> Anecdotal evidence from domestic violence service providers suggests that in Massachusetts, as in other states, help-seeking IPV/A victims face significant challenges in determining whether to go to court, how to go to court, which court to approach, how to manage court actions (or multiple actions), how to pursue enforcement of court orders, how to locate advocacy services, and, perhaps most importantly, how to stay safe while seeking help.

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## **The Intersection of Public Health and the Justice System: How Family Court Performance Can Affect Public Safety**

Because IPV/A is a complicated issue, it is tempting to classify it as either a justice-related problem or a public health-related problem and overlook the reality that handling IPV/A requires action from both sectors. As the CDC explains, “An important part of any [public health] response to...intimate partner violence is to hold perpetrators accountable.”<sup>16</sup>

Like most states, Massachusetts relies on multiple agencies to assist victims of IPV/A. These agencies include law enforcement, criminal and civil courts, public health agencies, healthcare providers, and nonprofit social services. As Governor Patrick pointed out, the key to increasing public safety is better coordination within and among the organizations that serve victims. Thus, the system’s inability to prevent the public health emergency of IPV/A points to the need to find *more precise ways* to identify service gaps across sectors, promote relationships among agencies, and catalyze systemic change.

Nationally, many resources have been devoted to improving law enforcement, social service, and public-health responses to IPV/A. Like police, courts act as first responders for victims, frequently via restraining orders. In most states, these orders are issued by “front-line” courts that can hear certain types of both civil *and* criminal cases (also known as courts of general jurisdiction).<sup>17</sup> In Massachusetts, the district courts serve as the “front-line” courts.

Because of their strong association with restraining orders, researchers commonly focus on the role of “front-line” courts when scrutinizing judicial approaches to IPV/A, but pay less attention to family courts, which, in addition to having the capacity to issue restraining orders,<sup>18</sup> also have the exclusive authority to hear domestic relations matters such as divorce and child custody. These matters, like restraining orders, can be the first public action a victim takes to escape abuse. Family court proceedings thereby offer crucial opportunities to interrupt the cycle of violence<sup>19</sup> and family court judges and probation officers (once known as “Family Service Officers” in Massachusetts Probate and Family Courts) play key roles guarding public safety.

The ongoing IPV/A crisis in this state has been exacerbated by the recent corruption allegations against the Office of the Commissioner of Probation.<sup>20</sup> Massachusetts has reached a turning point on the issue of interpersonal violence and abuse that presents the Commonwealth with a rare and significant opportunity to build the capacity of the Probate and Family Court.

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## Origins of This Report

In 2006, after many years of discussion about disconcerting family court conditions for IPV/A victims, the Probate and Family Court subcommittee of the then Governor’s Commission on Sexual and Domestic Violence<sup>21</sup> identified family court proceedings as cornerstones in the effort to improve conditions for IPV/A victims. However, a lack of data stood in the way of identifying the most effective routes to systemic change. The Massachusetts court system collects overall totals of types of domestic relations cases (divorce, custody, etc.), but does not collect data on specific *characteristics* of these cases such as whether a case involves risk factors such as IPV/A. The subcommittee therefore decided to concentrate its efforts on the pursuit of a data collection project, specifically a limited “snapshot” approach to gathering data.<sup>22</sup> Snapshot studies are conducted over brief periods of time such as hours or days, while longitudinal studies take more time—typically months or years. Longitudinal system-wide data collection in courts is costly, time-consuming, and resource intensive. However, a limited, “snapshot” approach offered the possibility of gathering enough information to gain a preliminary understanding of the problem at hand. So the subcommittee decided to try the snapshot approach.

Thus, with support from The Boston Foundation,<sup>23</sup> the Family Court Snapshot Data Collection Project (FCSD) began in 2008 as a first attempt to conduct a data-driven field study of how often family courts see IPV/A in cases, how the courts

handle these “high-risk” cases, how often children are involved in such cases, and whether biases or other cultural phenomena interfere with the courts’ ability to adjudicate high-risk cases. The project gained the support and cooperation of the Chief Justice of the Probate and Family Court, the Honorable Paula M. Carey, and the Office of the Commissioner of Probation. This is the first field study of family courts in which judges, probation officers (POs), and litigants were surveyed simultaneously.

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## **How a Family Court Case Proceeds Through Court and Diagram of the Process**

Understanding this research and its results requires some knowledge of how a family-court case proceeds through court. The following synopsis and the diagram in Appendix A present a simplified version of the process, which can become complicated, especially for complex cases. Probate and family courts handle a wide variety of civil cases including divorce-related matters and probate-related matters. For the purposes of this research we limited the scope of questions to restraining orders, child support, child custody, visitation, and divorce.

After the service of papers, the parties usually seek temporary orders to gain relief with respect to certain parts of their case such as child custody, visitation, child support, spousal support, and/or attorney’s fees. Getting decisions on such motions requires the parties to visit the courthouse for: a) a dispute intervention (D.I.) with a PO; and, if necessary, b) a hearing to be conducted by a judge on the temporary motions.

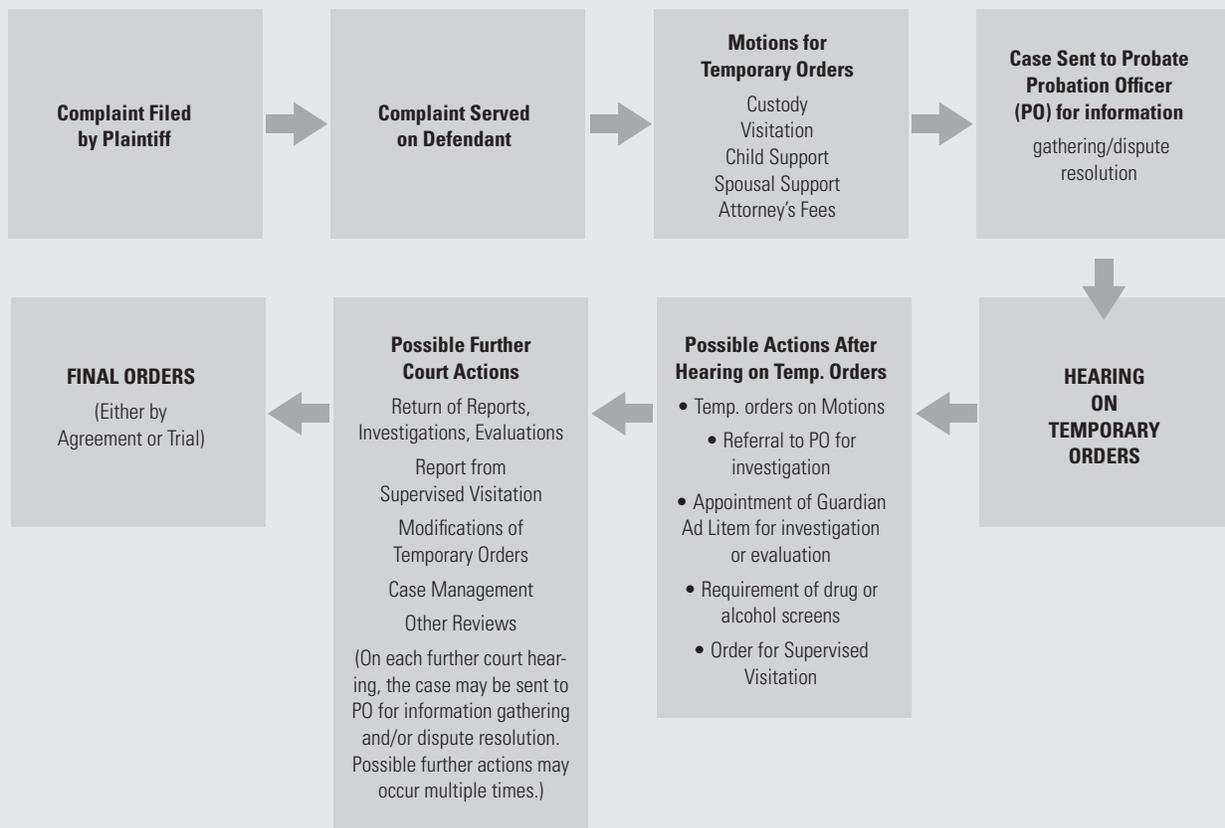
To begin this process, litigants enter the courthouse, pass through security, and must locate the Probation Office. In all the courts visited in the study, there were few, if any, signs to direct litigants to this office. Thus, litigants are frequently confused and, finding no other assistance, must ask security officers for help.<sup>24</sup> Once they arrive at the probation office, they must figure out when and where they will be seen. Queuing procedures are different at each courthouse. During our data collection period we observed that inexperienced litigants spend a fair bit of time trying to decipher the process, which seemed opaque and intimidating to them.

Once litigants have been triaged by the probation desk, they must wait for their dispute intervention appointment. During the dispute intervention, the probation officer interviews the parties to gather information about their complaints and the case history. If there is an active restraining order the parties are interviewed

separately. Then the PO works with the parties to see if some or all of the matters before the court can be resolved by agreement. It is important to note that the dispute intervention process differs from court-based mediation in that it is neither confidential nor voluntary.<sup>25</sup> If the parties are able to reach an agreement as a result of the dispute intervention, they do not have to proceed to a hearing.

However, many cases are complicated and cannot reach an agreement. These must still be seen by a judge for temporary orders or further actions. In such cases, the PO may make recommendations to the court, sometimes in person, during the hearing. Eventually, the judge issues final orders on the original motions in a case as a result of a trial or agreement of the parties. It may take several rounds of investigations, evaluations, modifications of temporary orders, and other case-specific actions before the parties either settle or final orders are issued. Given the inherently complicated and lengthy nature of family-court cases, it is not surprising that dissatisfaction occurs and that a variety of stakeholders (litigants, attorneys, researchers, and policy-makers) have been critical of the system.

## A DOMESTIC RELATIONS CASE IN THE PROBATE & FAMILY COURT<sup>26</sup>



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# The Role of the Family Courts in IPV/A Prevention and Mitigation

The mission of the Massachusetts Probate and Family Court is, “To deliver timely justice to the public by providing equal access to a fair, equitable and efficient forum to resolve family and probate legal matters and to assist and protect all individuals, families and children in an impartial and respectful manner.”<sup>27</sup> The sheer volume of family court cases demonstrates how much the general public relies on the courts’ services. In FY 2011, 155,968 cases were heard in the Massachusetts Probate and Family Court. Of these, 103,946 (67 percent) were family and/or child welfare cases. Family cases therefore made up just over nine percent of the total cases filed in all Massachusetts courts in FY 2011.<sup>28</sup> In addition, 46,931 restraining orders and harassment prevention orders<sup>29</sup> were filed<sup>30</sup>. Based on these raw numbers, we estimate that roughly one in thirty Massachusetts citizens was involved in a family court case in 2011<sup>31</sup> and it is likely that the majority of these litigants were not represented by an attorney.<sup>32</sup>

In the past, family courts took domestic violence out of the realm of criminality and into a reconciliation-oriented forum.<sup>33</sup> In modern times, we recognize that while courts must focus on adjudicating disputes, fulfilling the broad mission of family courts requires expanding their mandate beyond dispute resolution. Thus, under ideal circumstances, the family court adjudication process would:

- a) carefully assess each case for health, safety, and financial concerns;
- b) coordinate and execute a thorough transmission of information among litigants, probation officers, judges, and court divisions;
- c) collect detailed information about litigants that is pertinent to judicial decision-making at every stage of the adjudication process (intake, case assessment, and court ruling); and
- d) collect data according to court performance measures for evaluative purposes.

## Recent progress on IPV/A and related issues by the Massachusetts Probate and Family Court

The Massachusetts Probate and Family Court<sup>34</sup> has long been conscious of the need to improve processes in order to better serve litigants in high-risk<sup>35</sup> divorce and custody cases. Over the court's history numerous efforts have been made to study the needs of both litigants and court professionals, and to change court practices accordingly.<sup>36</sup> In 2003 the Massachusetts Administrative Office of the Trial Court published *Progress and Challenges*<sup>37</sup> detailing results from a two-year study of how each court division, including family court, handled cases involving domestic violence. The study closely examined the nuts-and-bolts workings of the court regarding requests for protection from abuse, domestic relations actions, and criminal cases to identify areas of proficiency and areas requiring improvement. Since the publication of *Progress and Challenges*, the courts have steadily made improvements based on the report's findings, though extensive budget cuts, severe reductions in staff, and other resource-related obstacles have impeded the court's efforts to make many improvements.

Both the courts and the Office of the Commissioner of Probation have conducted a number of trainings for both judges and court staff that focus on the issues raised by *Progress and Challenges*. Recognizing the need to better assist self-represented, or *pro se*, litigants, the courts published a guide for litigants explaining how to navigate the civil courts, which also includes a guide for court staff on how to better serve this population.<sup>38</sup> The court has created specialized trainings for all court staff on working with *pro se* litigants. The courts also adopted new standards to insure the quality of investigations and evaluations done by Guardians ad Litem;<sup>39</sup> they also increased their mandatory training requirements.

As a result of *Progress and Challenges* and the efforts of a specially appointed interdepartmental working group, judicial practices have been revised to improve court access for IPV/A-affected litigants. For example, a new protocol now allows Probate and Family Courts to respond to overnight emergency cases. Because the process of obtaining and enforcing a restraining order can be confusing for litigants, the court is piloting a project to test whether certain restraining-order cases can be transferred from the District Court, where most restraining orders are initiated, to the Probate and Family Court. Court personnel, primarily judges, have received specialized trainings on issuing child support orders have been conducted to improve the courts' overall performance in such cases.

Responding to domestic violence advocates' concerns about privacy, professionalism, and cultural competency, the court partnered with the Massachusetts Office of Victim Assistance (MOVA) and the Multicultural Immigrant Coalition Against Violence (MICAV) to offer new trainings on domestic violence issues for court interpreters. Similarly, the Trial Court Access to Justice Initiative created a working group to create "plain language" forms and increase the availability of such forms in multiple languages. As a result, forms required for restraining orders are being translated into Spanish, Portuguese, Russian, Haitian Creole, Chinese and Vietnamese.<sup>40</sup>

The trial court has engaged in outreach efforts to the public and to government agencies to educate them about the courts and to obtain feedback. Since 2011, the VAWA STOP Grant Coordinator (who is employed by the trial court)<sup>41</sup> has acted as a liaison among the many domestic-violence related stakeholder groups in the state including domestic violence roundtables, the Governor's Council to Address Sexual and Domestic Violence, the Family Law Domestic Violence Policy Group, and the Domestic and Sexual Violence Council. The VAWA STOP Grant Coordinator has become a much-needed (and consequently overburdened) single point of contact in the courts for all IPV/A-related issues for stakeholders and litigants both on policy and on individual cases.

Most recently (and most relevant to the subject of this report), the Norfolk Probate and Family Court completed a Domestic Violence Screening Pilot Project. The goal of this work was to "...address the need for earlier identification of domestic violence issues in child custody and access cases through the development of an intimate partner violence screening tool to be used in both the Intake and Dispute Intervention stages of the Probate and Family Court process."<sup>42</sup> The project developed a screening tool to: identify current or prior IPV/A when litigants first appear in Probate and Family Court; identify immediate and long-term re-victimization risk factors; and determine appropriate court actions, such as a probation investigation or a custody evaluation. Litigants were carefully pre-screened for pilot eligibility and, once included in the pilot, underwent a voluntary "Intimate Partner Violence Interview." Over the course of the one-month pilot project, 112 child-custody cases were screened using the new tool and screening process. Although the pilot has not yet been developed into a full-fledged program due to funding constraints and concerns about victims' exposure to risk, it did yield preliminary information that demonstrates how burdensome IPV/A is for family courts:

- 74 percent of the screened child custody cases showed evidence of IPV/A victimization, leading to the conclusion that IPV/A issues are "prevalent" among these litigants.<sup>43</sup>

- Returning cases (as opposed to new cases) had an even higher (87 percent) incidence of “red flags” for IPV/A victimization such that IPV/A may be “...a contributing factor to cases returning to Court.”<sup>44</sup>
- IPV/A-high-risk cases showed greater need for supervised visitation, set parenting schedules<sup>45</sup>, and carefully drafted child exchange procedures.<sup>46</sup>

In the future, the court plans to further evaluate the Domestic Violence Screening Pilot Project in order to implement more widespread use of domestic violence screening in family courts. In addition, the court will continue working on improvements recommended by *Progress and Challenges* and successive evaluative efforts. Much of this work will focus on improving access to restraining orders by translating application forms into seven languages, using technology to streamline the application process, and enabling Probate and Family Courts to take certain restraining order cases so that fewer litigants have to “toggle” between the District Court and the family court. Other planned projects that will improve conditions for IPV/A victims include developing a model language access court, a comprehensive assessment of the Probate and Family Court’s response to IPV/A, and the creation of separate and secure waiting areas to guard the safety of IPV/A victims when they come to court.

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## Persistent Complaints About Family Courts

Despite the efforts outlined above, complaints about family courts from both women and men have slowly intensified over time, reaching a fever pitch in the context of child custody proceedings within the last decade. Massachusetts special interest groups representing fathers with family court cases claim that women’s abuse allegations are not scrutinized by courts and that child-support awards ignore fathers’ rights to have contact with their children. In essence, the groups believe that family court judges deprive men of their civil liberties.<sup>47</sup> This belief is reflected in the mission of Fathers and Families, the most well-known and vocal fathers’ rights group in the state. It “...seek(s) better lives for children through family court reform that establishes equal rights and responsibilities for fathers and mothers.”<sup>48</sup> Reacting to perceived injustices, Fathers and Families has pursued an ambitious agenda aimed at promoting shared-parenting laws, reducing child support payments, criticizing the use and enforcement of restraining orders, legitimizing the concept of parental alienation,<sup>49</sup> and providing a model for fathers’ rights activism in other states. In 2004, activism by fathers’ rights groups led to a ballot question in 36 state representative districts and one state senate district<sup>50</sup> to mandate a presumption of

shared parenting in all child-custody cases. Such a presumption would award joint custody in all child-custody cases at the outset of a case, thereby undermining the use of judicial discretion in cases involving risks to the children and/or the parties.<sup>51</sup> Although the ballot question did not lead to a state law on shared parenting, father's rights groups were encouraged by the electorate's support for the initiative and continue to pursue adoption of the presumption. At the same time, one group of prominent researchers has concluded that fathers' rights groups are strategically targeting communities with weak custody laws in order to influence an assumption of joint custody in divorce for the purpose of eliminating the responsibility of one parent to pay child support to the other parent.<sup>52</sup>

In contrast, Massachusetts special-interest groups representing mothers with family court cases (sometimes called "protective parents" groups) claim that courts are biased towards abusive fathers. Victims of IPV/A (who are almost always women)<sup>53</sup> complain that their court experiences "... are often negative ... sometimes reporting that they feel anxious and confused about the process, receive insensitive and dismissive responses from court personnel, and encounter difficulty in securing the issuance or enforcement of sanctions."<sup>54</sup> In the state, groups such as the Massachusetts Protective Mothers for Custodial Justice contend that parents who allege abuse in custody cases suffer retaliation from the courts and are ultimately forced either to share custody with perpetrators of abuse or lose custody altogether.<sup>55</sup> Such groups have called for a number of different corrective measures including court-watch programs wherein members of the public monitor cases in court, activism against the inappropriate use of parenting coordinators,<sup>56</sup> and the use of civil-rights and human-rights claims in both trial court and (rare) appellate court actions pertaining to child custody.

As the emotionally charged debate between these special interest groups continues, academic studies of family court litigants have made steady progress in documenting and analyzing their complaints. This research commonly addresses two concerns: that courts do not take IPV/A into account even in cases with a documented, substantiated history of IPV/A; and that courts fail to order strong protections even in cases where a history of substantiated IPV is known to exist. The first concern raises the question of whether courts adequately screen for IPV/A, and whether allegations of abuse are ignored because of an institutional culture that may be desensitized to abuse.<sup>57</sup> Another study found that, "[i]n 56.9% of the cases with documented domestic violence, the [court-based] mediator failed to mention domestic violence in their recommendation report. The presence of domestic violence did not at all affect the likelihood of a [court-based] mediator to recommend joint legal custody and it actually predisposed the [court-based] mediator to recommend that the abusive parent receive primary physical custody. Fathers who were perpetrators of DV were awarded custody at an alarming rate and [court-based]

mediators recommended primary physical custody for the father significantly more often in DV cases than non-DV cases.”<sup>58</sup> A 2012 follow-up to the previously cited study found that abuse can be overlooked in making custody recommendations because family court mediators “do not possess a comprehensive understanding of the multitude of creative strategies survivors of [IPV/A] may need to employ to protect their children from abusers,” and because they examine a father’s actions *during* mediation (rather than a preexisting record of IPV/A) as the strongest proof of the existence of IPV/A.<sup>59</sup> The courts’ lack of capacity to detect abuse has led some researchers to conclude that restraining orders are ineffective because the process of issuing restraining orders is insufficient to identify potentially lethal abusers (at the very least), and that restraining orders are not well enforced, such that these orders are ultimately ineffective tools in breaking the cycle of abuse.<sup>60</sup>

In Massachusetts, the Wellesley Centers for Women conducted a human rights investigation of battered women’s complaints about the Massachusetts Probate and Family Court from 1999 to 2002. Information gathered from the in-depth testimonies of forty domestic violence survivors, written surveys, focus groups, and interviews with court-connected personnel was evaluated using international human rights laws and standards. The analysis resulted in a human rights report called *Battered Mothers Speak Out*.<sup>61</sup> Like the 2012 Rivera, Zeoli, and Sullivan study cited above, this primarily qualitative research project found that evidence of prior abuse may not be taken seriously by courts, and that battered women’s attempts to protect themselves and/or their children were undermined by due process problems such as denial of the right to respond to accusations in court. The human rights analysis concluded that courts fail to protect women and children from abuse and overlook attendant phenomena such as batterer intimidation via frivolous litigation that drains the victim’s finances.

So, while family court litigants’ complaints can sound exaggerated or implausible to some, research from various sources substantiates the general notion that inequities can result from family courts’ difficulties in dealing with IPV/A.

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## Pilot Phase Data Collection Methods

This research was conducted in two phases—a pilot phase and a final phase. For the pilot, surveys were distributed to litigants, probation officers, and judges in Probate and Family courts (PFCs) located in two greater-Boston communities: Brockton (Brockton PFC), a city with a racially and ethnically diverse population, and Canton (Norfolk PFC), a white-collar suburb of Boston. Survey data collection

sites were chosen in conjunction with the Chief Justice of the Probate and Family Courts and the Office of the Commissioner of Probation based on: judgments made by court and probation administration about the ease of conducting a survey in a given court (including factors such as the court's average case volume, and the size and layout of the courthouse); the demographic characteristics of the court's clientele; complementary judicial and project schedules; and location, i.e., proximity to Wellesley, where the researchers are based.

Surveys were designed to collect specific information from each cohort such that litigants completed a litigant-specific survey, judges completed a judge-specific survey, etc.<sup>62</sup> Both the pilot-phase and final-phase surveys were collaboratively designed by the principal investigator, a multidisciplinary advisory group, and three graduate-student assistants. We also received substantial survey input from the Honorable Paula M. Carey, Chief Justice of the Probate and Family Court and from the Office of the Commissioner of Probation.

For the final phase litigants, probation officers and judges were asked questions about:

- the types of cases they were involved in that day;
- court accompaniment for litigants;
- litigants' access to services such as advocates and interpreters;
- litigants' exposure to unsafe conditions at home for both adults and children.

In addition, litigants were questioned about their satisfaction with what transpired in court, whether they received adequate information about the case and its outcome, and basic demographic information. Surveys for POs and judges added questions about the volume of cases seen and methods used to assess cases for risk factors. All surveys were anonymous and the data were collected, analyzed, and stored according to procedures approved by the Wellesley College Institutional Review Board to assure confidentiality.

Pilot data were collected over six days, three in each court. Over these six days researchers distributed surveys to six judges, 55 probation officers, and 175 litigants involved in domestic relations cases. While 75 percent of probation officers and 100 percent of judges returned their surveys, the rate of pilot survey return among litigants was between 20 percent and 25 percent depending on the court, which yielded a sample that was too small to be statistically representative of the larger population. Despite the low response rate, the pilot phase generated important information about each cohort's ability and willingness to complete surveys about their personal experiences in court. Because the pilot did not produce a statistically

significant sample, only those pilot results that informed the development of the final data collection phase or confirmed findings from that phase are presented here.

## Survey Revisions: “Abuse” vs. “Safety”

The pilot phase enabled us to refine our data collection methods and improve the surveys substantially for the final phase. For example, probation officers from both pilot sites advised us to ask questions about substance abuse and mental health in the final data collection phase because they find that such problems frequently impede case resolution. Consequently, we added several questions on these risk factors to the final phase litigant surveys and added corresponding questions on risk factor assessment to the PO and judge surveys.

Most importantly, we studied litigants’ pilot survey responses to determine why the response rate for that cohort was low. Litigants’ IPV/A-related responses were often internally inconsistent, and some litigants declined to answer those questions at all, raising the possibility that they were reluctant to self-report IPV/A.<sup>63</sup> The pilot survey asked questions such as these, which may have made respondents feel they had to label themselves as victims or perpetrators of violence.

### IPV/A-related questions for 2009 pilot phase of data collection (“yes” or “no” questions)

28. Abuse/violence is present in this family such as slapping, hitting, and/or verbal threats.

29. I have been accused of violence in this case.

30. I have accused the other party of violence in this case.

31. I felt physically safe here today.

In the final phase, IPV/A-related questions were reworked to use behavior- and feelings-related language, rather than questions that required a respondent to label him or herself as a victim of IPV/A. The new questions used safety-related rather than abuse-related terminology. (The problems associated with using the term “safety” are discussed below in our section on the limitations of the methodology.)

**IPV/A-related questions for 2010 final phase of data collection  
("yes" or "no" questions)**

9. Did you feel safe in the courthouse?

10. Has the other person in your case ever made you feel unsafe?

11. Has the other person ever made you feel your kids were unsafe?

## Final Phase Data Collection Methods

For the final phase, surveys<sup>64</sup> were distributed in PFCs in Brockton, Canton (Norfolk), Salem, and Worcester. Brockton, Canton and Salem are located within the Greater Boston Area. Worcester is the largest city in central Massachusetts. Survey data collection sites were chosen using the same process and criteria as were used for the pilot. Data were again collected for three days in each court for a total of twelve days of sampling. On each survey day, all POs and judges, as well as all willing litigants, were given surveys to complete. Of the returned final phase surveys, we received usable data from 212 litigants (out of 366 distributed, a 58 percent return rate), 44 POs, and ten judges.<sup>65</sup>

	<b>Litigants</b>	<b>POs</b>	<b>Judges</b>
Final Phase Surveys Received	<b>212</b>	<b>44</b>	<b>10</b>
Written Comments Received on Final Phase Surveys	<b>10</b>	<b>0</b>	<b>3</b>

Simplified data collection procedures along with more user-friendly surveys account for the substantial improvement in the survey return rate for litigants.

On each day of data collection, the principle investigator (PI) and two or three research assistants set up a table outside the PFC courtrooms at the designated courthouse in accordance with the instructions of the Chief Probation Officer in each courthouse. The PI met with probation officers prior to survey distribution to explain the goals of the project and the data collection process, and to answer any questions regarding completion of the surveys. Surveys were given to judges by court staff. Both judges and probation officers were informed in advance by the

Chief Justice of the Probate and Family Court about the survey and its research aims. All court employees were given prepaid, addressed envelopes in which to return their completed surveys.

Litigant surveys were available in the most common languages spoken in eastern Massachusetts courts, based on information provided by the Office of Court Interpreter Services. For the pilot phase, surveys were made available in English, Spanish, Haitian Creole and Portuguese. Because the pilot phase data collection process did not receive any responses from Portuguese speakers or Haitian Creole speakers, surveys were distributed in only English and Spanish for the final phase of the project. Surveys for judges and POs were distributed in English only for both project phases.

Large signs by the investigators' station announced that researchers were asking litigants to complete surveys in order to better understand the family court process. The signs also notified litigants that the research was not commissioned or funded by the court and was being conducted by independent researchers at the Wellesley Centers for Women. In addition to using the station as a base for survey distribution, researchers approached litigants waiting to see a PO or a judge and asked them if they would be interested in completing a survey. Researchers identified themselves as employees of the Wellesley Centers for Women and wore badges identifying them as research staff. After a brief explanation of the goals of the project, litigants were left to complete the survey on their own. Litigants were advised to return their surveys to the researchers by placing them in one of the drop boxes located at the investigators' station and the exit of the courthouse, or by mailing it to them in an attached prepaid, pre-addressed envelope.

The researchers also provided candy and other small snacks to litigants, as well as small toys to children in the court. Completing a survey was not a condition of receiving these items, but their location at the researchers' station encouraged litigants to stop and speak to the investigators about the project.

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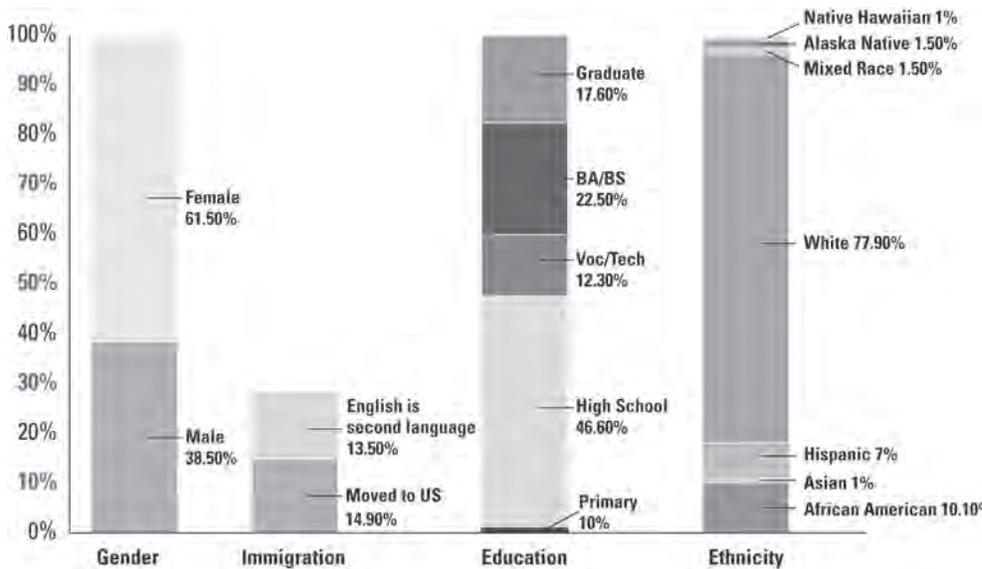
## Litigant Demographics

Demographic data, including gender, education, and ethnicity, were collected from all litigants. Litigants were also asked if they had moved to the U.S. and if they had learned English as a second language. Of the 212 final phase litigant respondents, 38.5 percent were male and 61.5 percent were female. A small group of litigants reported either being immigrants (14.9 percent) or English-as-a-second-language learners (13.5 percent). The majority of litigants had not gone beyond high school

(59.9 percent), although 12.3 percent of those attended a vocational or technical school. Almost one-quarter of respondents (22.5 percent) held an undergraduate degree, and a minority (17.6 percent) had attended some graduate school.

The majority of litigant-respondents were white (77.9 percent), while approximately ten percent were African American or Black, and seven percent were Hispanic. The remaining five percent of litigants identified themselves as Asian, Alaska Native, Native Hawaiian, or of Mixed Race.

## LITIGANT DEMOGRAPHICS



When we compared these demographics to data from the 2010 US Census,<sup>66</sup> we found that the background of the sample was not significantly different from that of the population of the state of Massachusetts. The same analytical method was used to determine that the educational and ethnic backgrounds of the respondents in each individual court did not differ from the specific area of Massachusetts represented by that court. However, there were two notable exceptions. Litigants in Worcester<sup>67</sup> were slightly more likely to have a Bachelor’s degree (or higher) than the general population of Worcester, and African Americans were overrepresented in the litigant sample in Canton (Norfolk PFC).<sup>68</sup> We were unable to compare other demographic variables of the sample to the characteristics of the specific area populations because corresponding data were not available from the 2010 Census. Overall, though, the litigant sample reflected the population of Massachusetts.

## Data Analysis Methods

This study focuses on a quantitative analysis of the final phase survey data, Survey answers from each respondent were coded by three separate coders. One researcher coded fifty percent of the surveys while two other researchers each coded 25 percent of the surveys.<sup>69</sup> Because of the number of items on the survey, a factor analysis was performed to reduce the number of variables in later analysis. This analysis determines whether there are common underlying factors connecting litigants' responses to multiple, different questions. It yielded six categories of common factors in litigants' responses:

- 1) satisfaction with the judge
- 2) satisfaction with the interpreter (if needed)
- 3) understanding displayed by the probation officer
- 4) safety concerns
- 5) comfort in the courthouse
- 6) background information.

Chi-square tests of independence, which measure the association between two variables, were used to determine whether the given factors were independent of each other, or whether they were related. In addition, individual variables were assessed to determine whether they were independent of demographic variables, or certain critical factors (such as litigants' feelings of safety), or whether they were related to such variables or factors.

Results are reported using the basic frequency of response for a given question<sup>70</sup> as well as a correlational analysis, which measures the strength of the relationship between the respondents' answers to different questions. There were no significant differences among litigants of different genders, ethnicities, educational backgrounds, or immigration status in their levels of satisfaction with the judge or PO, with their comfort in the courthouse, or in the number of safety concerns they reported. It is important to note that the relationships we report show associations between variables without implying what causes what. An investigation of causation would have required collecting data from same respondents at more than one point in time, which was outside of the scope of the snapshot study.

We also present results from a qualitative analysis of the small number of litigant, probation officer, and judge comments (see chart above for numbers of written comments made by each group), as well as 46 field observations that researchers recorded on the data collection days. The final phase surveys for litigants and POs

contained only closed-ended questions, while the judges' survey offered a small space for additional comments.<sup>71</sup> However, some litigants or POs either spontaneously wrote comments on the back of their surveys or were invited to do so if they approached survey staff to give verbal commentary. One researcher coded these comments and observations and used qualitative data analysis software to group the data by subject matter.

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## Limitations of the Methodology

Responses to the surveys reflect the **perceptions** of litigants, probation officers, and judges. Although respondents reported a wide range of backgrounds and we received a large number of responses, participants who returned completed surveys may have been in some way different from those who did not.

A significant and ever-present difficulty in survey research concerns the way in which questions are worded. Respondents may not interpret a question in the same way, such that they might, in effect, answer different questions. One example of this problem in the current research was the use of the words “safe” or “unsafe” rather than more common, specific domestic violence terminology such as shoving, kicking, hitting, biting, scratching, control, or coercion. Because the interpretation of “safety” can vary, these questions may have elicited responses referring to dangers not related to IPV/A. For example, respondents may not have considered verbal or *emotional* violence “unsafe” because most people interpret the word “safety” as referring to *physical* safety. To address this problem of varying interpretations, we consulted experts in legal advocacy and research when we designed the survey questions. While the pilot data showed that litigants often chose not to answer questions that used domestic violence terminology, the “safe/unsafe” terminology used in the final phase generally produced internally consistent responses from litigants and generated a much larger overall response rate.

The complexity of case processing and the need to preserve the anonymity of litigants made it unfeasible to follow cases through the adjudication process or to link litigant surveys, probation officer surveys, and judge surveys together. Thus, we were not able to get a comprehensive picture of any single case or independently validate litigants' claims using case files, as researchers have often done in other court-based studies. The information litigants provided was entirely temporal and may not reflect the actual histories of their cases. To overcome this problem, surveys were crafted so that, whenever possible, questions on the litigant survey corresponded to questions on the probation officer and/or judge survey. This inter-

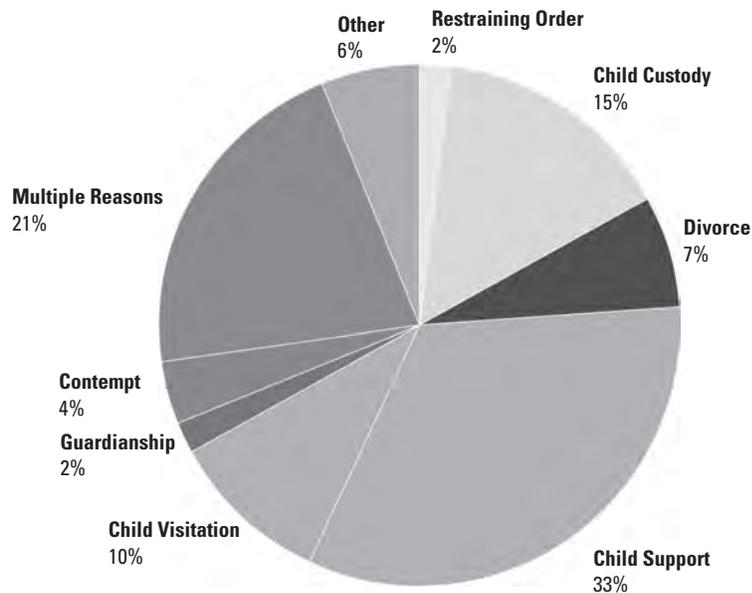
connected survey structure enabled us to uncover disparities between the different groups' responses and search for mathematical correlations.

The snapshot approach to data collection has inherent drawbacks because it calls for gathering information over a limited period of time and restricting the number of data collection sites. The ebb and flow of cases in certain seasons or under other environmental conditions may be different enough to skew the data.

## Types of Cases Seen in Probate and Family Court

The majority of litigants, roughly 57 percent, reported that they were in court for a child support-, child-custody, or visitation-related matter. Probation officers' responses confirm that most of the dispute interventions they conducted involved child support, custody, or visitation (52 percent, 30 percent, and 39 percent respectively). Judges reported that the cases they saw involved children always, usually, or half the time, meaning that their caseloads were more likely to involve children than not.<sup>72</sup>

### LITIGANTS' REASONS FOR VISITING FAMILY COURT



The high number of cases that include matters related to children has strong implications for court policies and practices because child-related cases are disproportionately burdensome for family courts. These multi-layered disputes require intensive investigation and evaluation and are costly and time-consuming for both litigants and for the courts. As documented above, child-related matters in divorce are the flashpoints for both mothers' rights and fathers' rights groups, indicating that these cases have profound, life-changing effects that inspire tenacious court battles. Given that Massachusetts Probate and Family Courts spend most of their time hearing child-related matters, the addition of risk factors like IPV/A could easily overtax the system.

In contrast, only about seven percent of litigants reported being in court on a divorce-related matter. Merely two percent reported being there for a restraining order, although POs reported that fifteen percent of their dispute interventions were related to a restraining order and that 28 percent of the dispute interventions they conducted were between couples with a past and/or present restraining order. The relatively low numbers of restraining order-related matters reported by litigants might be attributed to the random distribution of cases that were seen in the courts on our data collection days, or to the fact that in Massachusetts most restraining orders are filed in the District Court, not in the Probate and Family Court.

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## **Frequency of Court Accompaniment and Access to Legal Representation**

At the outset of the study, we theorized that those litigants who go through the court process with someone may have a different experience in court than those litigants who go through their cases alone. We therefore researched the frequency of court accompaniment and legal representation because access to these services can potentially change the behavior of litigants and, in turn, have an effect on case outcomes. For those litigants who have a case involving IPV/A, not having an attorney or lay advocate can make it far more difficult to present IPV/A-related information to the court. Findings presented later in this report show that litigants struggle with self-reporting about IPV/A, and that court professionals, like other first responders, therefore have trouble uncovering this crucial information.

Thus, litigants were asked if they:

- brought a friend, family member, or anyone with them to court
- were represented by an attorney
- were referred by court personnel to an advocate
- needed and received an interpreter.

About half of all litigants reported that they had brought a friend, family member, or similar nonprofessional with them, but accompaniment of this kind did not correlate to any other survey results such as those related to litigant safety. Therefore it does not appear that accompaniment by friends or relatives has a significant effect on the litigant's family court experience.

However, *nearly 68 percent of litigants reported that they were **not represented by an attorney*** (commonly referred to as *pro se* litigants) and half the judge-respondents reported that it was usual for both parties to appear without counsel. Forty percent of the judges surveyed reported that only one party was represented in about half of the cases they saw. These findings confirm the fact that the majority of Probate and Family Court clients are not represented by an attorney.

Litigants with an IPV/A aspect to their cases could have been referred by court personnel to a domestic violence advocate,<sup>73</sup> such as a SAFEPLAN advocate, who provides safety planning and resource referral services for litigants in restraining order cases). However, only fourteen percent of litigants said that they received such a referral even though more than half of them said the other person in their case made them feel unsafe. Only two percent of dispute interventions involved a SAFEPLAN advocate and, accordingly, most judges reported that their cases did not involve a SAFEPLAN advocate. The low rate of referrals may reflect some court personnel's possible misunderstanding that only litigants seeking restraining orders can be seen by SAFEPLAN advocates. However, our results suggest that those litigants who receive a referral to an advocate make use of those services, as most litigants who reported having received a referral to an advocate also reported having successfully met with an advocate.

The researchers' qualitative observations about the scarcity of information available to litigants about domestic violence advocates and SAFEPLAN and other domestic violence advocates may explain, at least in part, why litigants do not access these services as often as they might. None of the courthouses we visited provided clear information such as signs, flyers, or information desk materials about the availability of these services. In fact, litigants often asked the researchers who were collecting data whether such services were available.

Only three percent of litigants said they needed an interpreter and two percent received interpreters. Likewise, POs reported that interpretation was required in only two percent of the dispute interventions they conducted. In addition, 80 percent of the judges reported that the quality of interpretation was satisfactory. We received very few completed non-English speaking surveys so we are unable to determine whether access to interpretation services plays a role in how family courts handle cases.

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## Litigants' Experience Within the Courthouse

Just over 80 percent of litigants said that they knew where to go in the courthouse. However, we note that we surveyed litigants *after* they had reached their destination and that most survey-takers had been to the court before, such that the survey may not have captured litigants' attitudes upon entry to the courthouse. Because research staff members were stationed at courthouse entry points, almost one-third of the field observations noted litigant confusion about where to go in court because of a lack of clear signage at those entry points. In general, we noticed that court visitors rely heavily on security officers for directions, and while the officers are usually helpful, it is not their responsibility to answer complicated questions such as those related to advocacy services or interpretation. In a few instances, visitors' complicated needs appeared to interfere with a security officer's ability to screen entering parties, the officer's main responsibility. Researchers observed that the lack of courthouse signage is a problem across locations and that information desks are not available, have very limited hours, and/or are so poorly labeled that litigants miss them. We feel that even small changes to assist disoriented litigants could improve litigants' overall perceptions of the courts. Better signage could even affect satisfaction with case outcomes by lowering the frustration of anxious litigants.

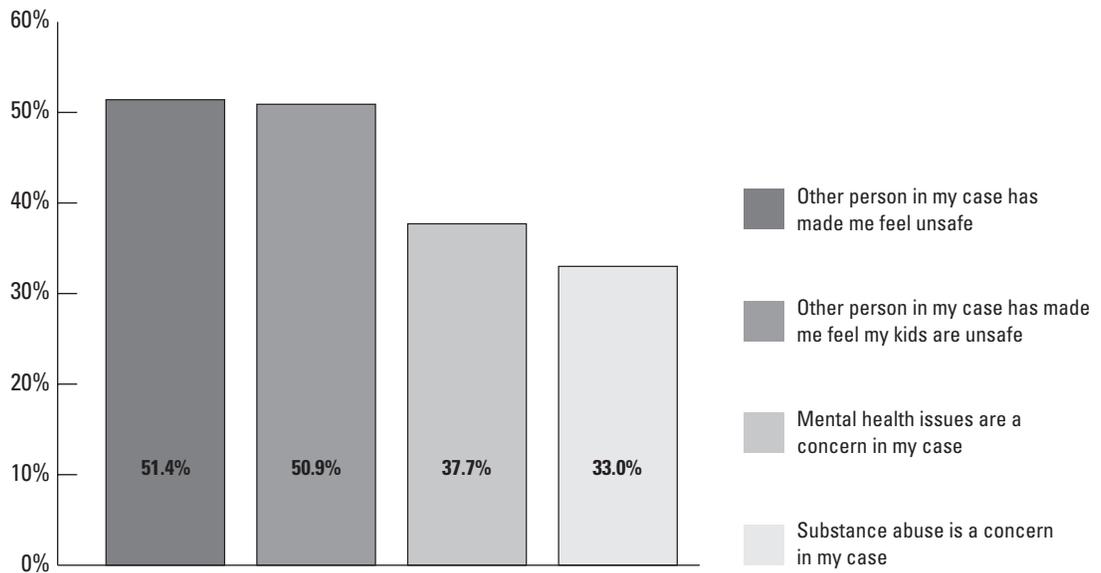
Eighty-eight percent of litigants said that they felt safe in the courthouse. One IPV/A victim made a special effort to tell researchers that the Brockton courthouse is the only place where she has felt safe in the many years that she has been fighting for custody of her children. Later in this report we examine the connections between litigants feeling safe in the courthouse and their satisfaction with judges.

# Litigants' IPV/A Concerns, Child Safety Concerns, Substance Abuse Concerns, and Mental Health Concerns

Our survey found that among family court litigants

- 51 percent say the other person in their case has made them feel unsafe;
- 51 percent say the other person in their case has made them feel that their kids are unsafe;
- 38 percent say a mental health problem is associated with their case; and
- 33 percent say a substance abuse problem is associated with their case.

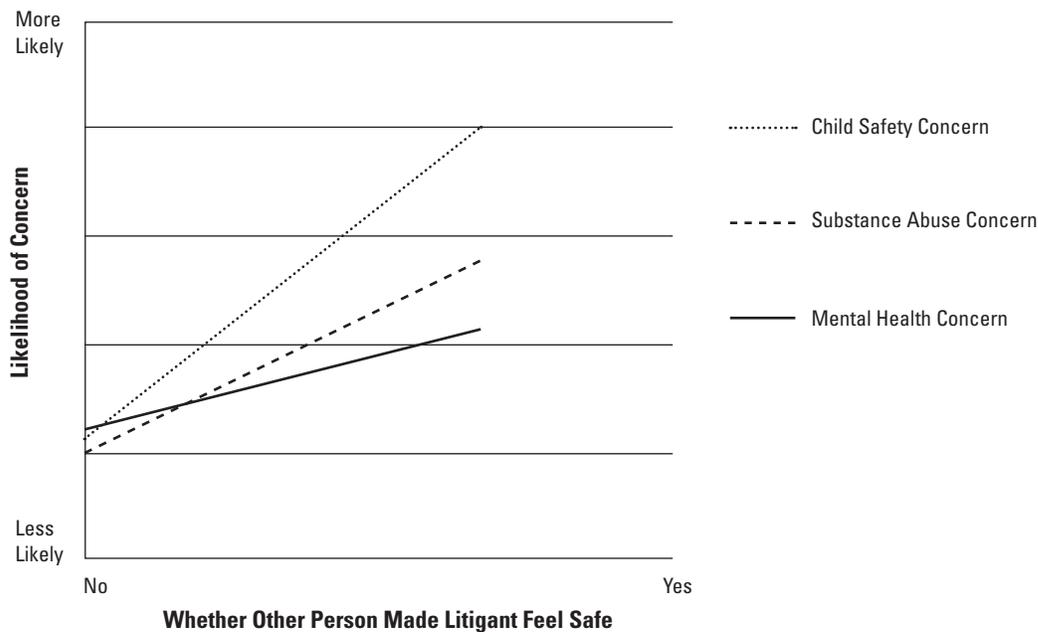
## LITIGANTS' REPORTS ON RISK FACTORS IN THEIR CASES



Women were significantly more likely than men to report that the other parties in their cases made them feel unsafe.<sup>74</sup> However, there were no statistically significant differences between genders in reporting that the other party made the litigant feel his/her children were unsafe,<sup>75</sup> that substance abuse was a concern in the case,<sup>76</sup> or that mental health was a concern in the case.<sup>77</sup>

Correlational analyses of our final-phase survey responses revealed that litigants who reported that the other person in their case made them feel unsafe were also more likely to report that the other person in their case made them feel their children were unsafe,<sup>78</sup> and to report that there were substance abuse or mental health problems associated with their cases.<sup>79</sup>

## CORRELATION BETWEEN LITIGANT SAFETY CONCERNS AND RISK FACTORS



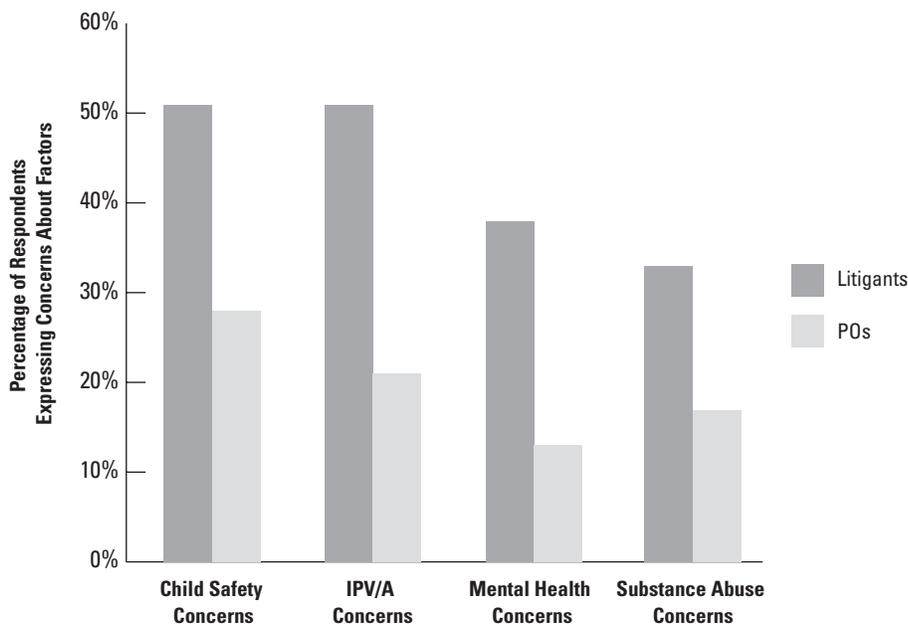
This result is consistent with results from national studies and studies conducted in other states. According to the National Institute of Justice, “... there is a high correlation between alcohol and substance abuse and domestic violence for abusers”<sup>80</sup> For example, a New Mexico study showed that alcohol and drugs were present in 65 percent of the 46 domestic violence-related homicides recorded in that state between 1993 and 1996.<sup>81</sup> And there is strong evidence that chronic alcohol and drug abuse is a risk factor in re-abuse.<sup>82</sup> Moreover, “[v]ictim abuse of drugs and alcohol is also associated with domestic violence victimization.”<sup>83</sup> Although the correlation does not in any way imply that there is a *causal relationship* between IPV/A and substance abuse and mental illness, we can say that good decision-making for high-risk cases requires collecting information about the child trauma, substance abuse, and/or mental illness that might be associated with a case.<sup>84</sup> Insufficient information about these co-occurring risk factors (sometimes called co-occurring morbidities) could lead to poor case outcomes for IPV/A victims and their children.

# Comparing Litigants' and Probation Officers' Reports of IPV/A, Mental Health Concerns, and Substance Abuse Concerns

There were notable gaps between litigants' reports of problems related to their own safety, that of their children, substance abuse, or mental health and those of POs. While more than half (51 percent) of all litigants reported that the other person in their case made them feel unsafe,<sup>85</sup> POs reported that only 21 percent of the dispute interventions they conducted involved a domestic abuse concern. Consistent with POs' responses, half of the judges surveyed also reported that the parties in the cases they saw *seldom* provided information about the existence of domestic abuse.

A similar discrepancy emerged between litigants and POs regarding children's safety. Fifty-one percent of litigants told us that the other person in their case made them feel their kids were unsafe, whereas probation officers reported concerns about the emotional, physical, and/or sexual safety of the children in only 28 percent of dispute interventions. Substance abuse concerns affected 33 percent of litigants, but arose in only seventeen percent of dispute interventions. Finally, 38 percent of litigants reported concerns about mental health issues attached to their cases, but this problem surfaced in only thirteen percent of dispute interventions.

## COMPARING PO & LITIGANT RESPONSE ABOUT RISK FACTORS



This disparity between what litigants report about their lives in an anonymous survey and what probation officers observe during the adjudication process indicates that there is an IPV/A information gap in family courts. Later in this report, we will discuss the effects of this information gap on judges. (see page XX)

The current case assessment procedures rely to a large extent on litigants' willingness to speak openly about their situations. But the reluctance of IPV/A victims to disclose abuse is well documented.<sup>86</sup> A study conducted in 2000 found that 29 percent of the spouses or partners of men enrolled in a batterers intervention program reported that no assault had taken place, even though the assault appeared in police records. These spouses/partners were more likely to deny abuse than their batterers, only eleven percent of whom denied an assault had taken place.<sup>87</sup> Likewise, most IPV/A victims who receive professional counseling do not report the abuse to their therapists.<sup>88</sup> If victims are extremely hesitant to disclose abuse even in relatively friendly surroundings, this hesitancy is likely more pronounced in a legal setting.

If judges do not receive information about IPV/A from litigants, and/or that information is not useful in making a determination about the presence of IPV/A, court outcomes in high-risk cases have a low chance of reducing a family's exposure to violence. In effect, courts are handicapped in crafting helpful outcomes for high-risk cases because they lack the information necessary to make good decisions.

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## Litigants' Satisfaction with the Court Experience

This portion of our study investigated claims that court staff is biased against women or men. If either assertion were valid, we would expect to find a gap between male and female litigants in satisfaction with judges and/or probation officers. But we found no significant differences between the genders in *overall* satisfaction with judges or POs. Thus, this study did not find any overt evidence that either gender feels disfavored by judges<sup>89</sup> or POs.<sup>90</sup>

Because family court litigants see different court personnel depending on where their cases are in the process on a given day, only sixty percent of our respondents were able to answer our questions about their experiences with a judge and only fifty percent of the litigant respondents were able to answer our questions about their experiences with a probation officer. Of the litigants who answered those questions, 66 percent felt the judge understood their story, 63 percent felt the judge

understood their financial concerns, 66 percent felt the judge understood their relationships with their children, and 73 percent felt the judge clearly explained the court order that was made on the survey date. Similarly, of the litigants who answered questions about their experience with their probation officer, 78 percent felt they understood the purpose of dispute intervention, 82 percent felt they understood the POs role, 63 percent felt the POs understood their story, and 65 percent felt the POs understood their relationships with their children. Sixty-two percent of litigants did not feel that POs pressured them to go along with things they did not want, but it is important to note that 38 percent *did* report feeling pressured, indicating that there is room for improvement in this area. Only sixteen percent of the litigants we surveyed told us that they *did not* understand the agreement they had made on the data collection day. If a large number of litigant respondents had reported an inability to understand the agreements they made, that result might have indicated pressured negotiations or poor communication from the court, but such problems were not detectable from our survey results.

Safety concerns have a strong effect on litigant satisfaction. We found a significant, negative association between litigants' safety concerns and their satisfaction with their experience in front of a judge.<sup>91</sup> The litigant survey broke safety concerns into five questions to isolate different factors in personal safety: safety in the courthouse; a feeling of danger stemming from interactions with the other party in the case; a feeling that the other party poses a danger to the litigant's children; general difficulties involving substance abuse in the case; and difficulties involving mental health in the case. The more "yes" responses a litigant had to the questions about safety in the courthouse and lack of safety for his or her children, the more likely he or she was to report that the judge's order was unclear, or that the judge did not understand his or her story, financial needs, or parent-child relationship.

In addition, correlational analyses found a significant relationship between litigants' satisfaction with their experience in front of the judge and their perception that the probation officer understood their case.<sup>92</sup> And a litigant's satisfaction with both the judge and the PO was correlated with how secure he or she felt in the courthouse.<sup>93</sup> That is, the safer a litigant felt in the courthouse, the more likely he or she was to believe the judge and PO understood their case. Conversely, the less safe the litigant felt, the less likely her or she was to feel the judge and PO understood his or her case.<sup>94</sup>

Thus, while the data do not indicate evidence of bias either for or against IPV/A victims, the presence of IPV/A can make it more difficult for litigants to have a satisfactory family court experience. A litigant's experience is highly affected by what he/she experiences with the probation officer, extending as far as his/her feeling of safety in the courthouse. If the probation officer is perceived as understanding, that satisfaction is likely to carry through to the litigant's experience with the judge.

Since dissatisfied litigants could revisit courts to seek better outcomes, there is great utility in giving greater attention to high-risk cases at their outset to increase the likelihood of crafting both satisfactory case *experiences* and satisfactory case *outcomes*.

The field notes and litigant comments we collected support this conclusion. Most of the of written comments offered by litigants were about unsatisfactory experiences such as disrespectful treatment by court personnel<sup>95</sup> and perceived inefficiency in the system, which is, in effect, an indicator of what litigants perceive as disrespect for their time. The following example taken from our field notes illustrates both problems:

One couple reported having been in court yesterday and came back to see the judge today. They thought they had settled their matter with a PO, who told them they could leave. However, the judge had told them to report back to the courtroom. They didn't know whether they were supposed to go back to the judge or not. The PO gave them little guidance, but finally directed them back to the courtroom. We saw them again as they were leaving the courtroom. They were angry because the judge had been angry at them, informing them that only the judge could dismiss a party from court. They felt the PO hadn't fully communicated the results of the dispute intervention to the judge, so they were asked questions they had already answered during the dispute intervention. Both parties were visibly angry and upset.

Twenty percent of the research staff's field notes document verbal remarks from fathers. Several fathers in the Brockton PFC who completed surveys commented that they'd like a fathers' advocate because they felt that "fathers are being screwed." These fathers expressed a high level of disregard for the court's authority. On the other hand, some fathers approached us to state that they did not sympathize with the father's rights movement and, despite having lost their cases in the past, felt that they had received fair treatment from the court. One such father in court for a custody action wrote,

I have been involved in this court for several years and feel that men are discriminated against. I recently went through a motion for custody. I felt Judge X did a very fair job. [This judge's] staff went out of their way to be helpful. I dealt with Judges A, B, C, and D in the past and they were very unfair. Thank God for Judge X. Right or wrong, [this judge] was fair!

Thus, perceptions about respect and fairness are embedded in litigant satisfaction and can affect litigant behaviors ranging from cooperation at the investigative stage, to compliance with court orders, to ongoing litigiousness. Direct evidence that satisfaction is tied to compliance with court orders comes to us from research conduct-

ed in the field of procedural justice.<sup>96</sup> “Procedural justice suggests that how litigants regard the justice system is tied more to the perceived fairness of the process than to the perceived fairness of the outcome. In other words, even litigants who ‘lose’ their cases rate the system favorably if they feel that the outcome is arrived at fairly.”<sup>97</sup> Procedural fairness is achieved when the parties:

- are given an adequate chance to speak;
- perceive that court staff, including judges, treat them with respect;
- perceive that the decision making is neutral and trustworthy;
- understand the adjudication process, their rights, and the decisions that have been made; and
- perceive that court personnel are doing everything possible to be helpful.<sup>98</sup>

Procedural justice researchers have shown that procedural fairness, rather than outcome favorability is a “significant predictor” of satisfaction in high-conflict cases.<sup>99</sup>

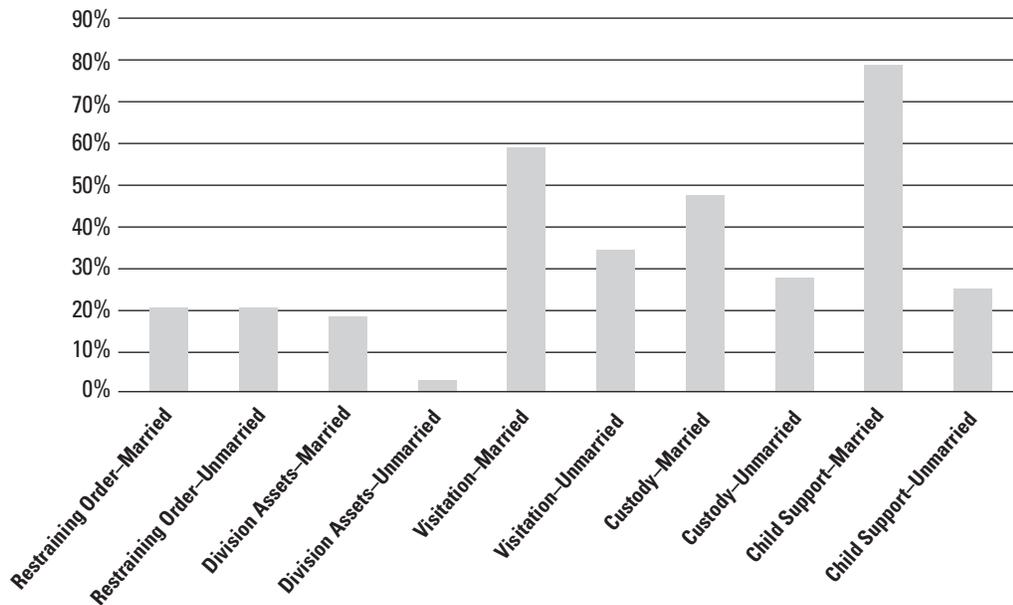
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## **Probation Officers’ Experiences With IPV/A, Child Safety, Substance Abuse, and Mental Health**

Probation officers were asked about domestic violence, substance abuse, mental health, and child safety concerns that arose during their dispute interventions. Responses to the pilot phase surveys indicated that such issues were rarely a concern, and that generally POs felt they had adequate information about these matters. To further probe this finding, the final phase surveys were shorter and asked more questions about the factors that influence the safety of litigants. The final surveys also asked POs about the methods they used to determine whether they should be concerned about domestic violence, substance abuse, or mental health. Data from the final phase show that POs found domestic abuse to be a concern in 21 percent of the dispute interventions they conducted, mental health to be a concern in thirteen percent of the dispute interventions they conducted, and substance abuse to be a problem in seventeen percent of the dispute interventions they conducted. Those frequencies are substantially lower than the frequencies self-reported by litigants.

Probation Officers reported handling between one and six dispute interventions per day,<sup>100</sup> with forty percent of POs overseeing two dispute interventions on a given day. Most dispute interventions concerned previously married couples' legal actions for child support, visitation, or child custody.

## PERCENT OF POS WITH EACH TYPE OF CASE



The majority (56 percent) of dispute interventions were related to motions filed by the parties, while 25 percent were related to a contempt citation from the court, 21 percent were a pre-trial conference, and one percent were related to an ongoing trial. On average, just over half (55 percent) of an individual PO's dispute interventions ended in an agreement.

Most probation officers used a variety of investigative measures, including:

- collecting Warrant Management System (WMS) and Court Activity Record Information (CARI) reports,<sup>101</sup> noting previous and current restraining orders and criminal actions in order to inform the judge about violations of prior restraining orders or an assault and battery;
- reviewing intake forms to determine whether a party had been abusive or if allegations of abuse had been made in the past;
- observing the parties' behavior;
- scrutinizing litigant statements;
- administering intake questionnaires to aid in the determination of concerns about IPV/A, substance abuse, or mental health.

The following table presents and compares the rates of usage for different assessment methods:

Assessment Method	Domestic Abuse	Mental Health Problem	Substance Abuse
CARI check	91%	54%	53%
WMS check	14%	8%	6%
Past or present restraining order	81%	n/a	n/a
Behavior of the litigants	43%	85%	41%
Statements of the litigants	76%	100%	77%
Information on the intake form or on the pleadings	33%	8%	41%
Standard questionnaire or assessment tool	0%	8%	18% (drug screening)
Call from Department of Children and Families	n/a	n/a	18%

The most frequent methods used to assess domestic abuse were CARI checks, the existence of a past or present restraining order, and the behavior of the litigants. None of the POs surveyed reported using standard, validated questionnaires or assessment tools to discover the presence of domestic abuse. As of the data collection period, such tools were not officially available to POs though some POs' survey comments indicated that they had tried to use methods akin to formal assessment in the past.

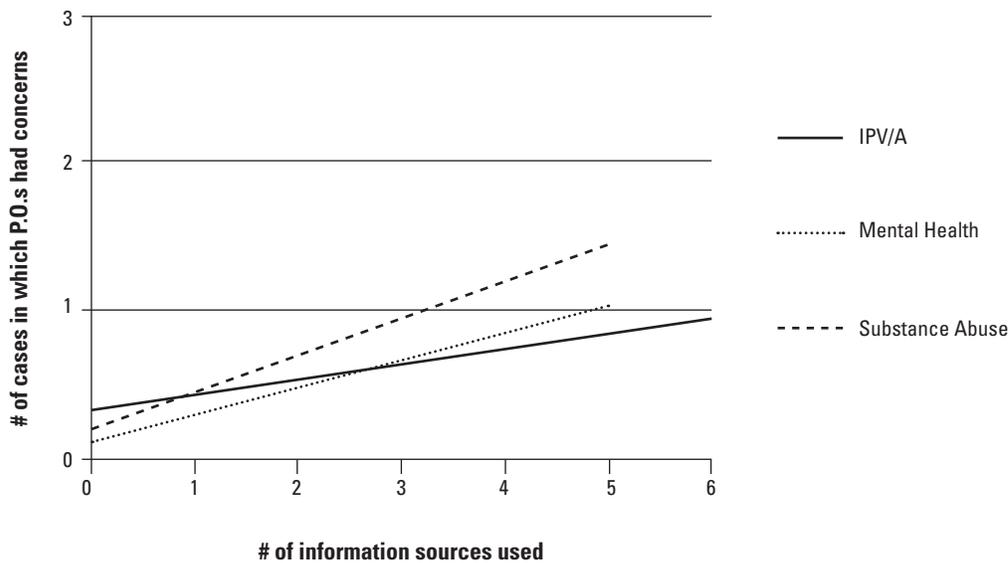
The statements and behavior of the litigants were the most important indicators of mental illness for probation officers. Similarly, POs most often looked to the statements of the litigants to signal a substance abuse problem. Overall, POs consistently relied on CARI checks, the statements of the litigants, and their own observations of litigant behavior to draw conclusions about the presence of significant risk factors.

These results tell us much about the quality of current case assessment practices and the consequences of these practices for both judges and litigants. The use of anecdotal evidence and evidence from past cases (as revealed by a CARI check) is likely insufficient to uncover or substantiate victims' claims of abuse in new cases or in "he-said-she-said" cases where the PO currently uses his or her judgment to

assess the validity of litigants' stories. Case evaluation that relies on limited information severely undermines the ability of POs to give complete, well-founded information to judges. In addition, the apprehensions that litigants with safety problems report about their experiences with court personnel may be connected to the porous nature of the case assessment process.

Statistical analysis of POs' responses revealed that an individual officer's IPV/A concerns could be significantly predicted by the number of measures he or she used to determine whether IPV/A was involved.<sup>102</sup> Their concerns about mental health or substance abuse were similarly predictable as shown by the figure below.<sup>103</sup>

### POs' SAFETY CONCERNS



However, even though this relationship is significant, it does not mean that the more methods POs use to assess IPV/A, substance abuse, or mental health, the more they have concerns about these issues. Rather, it may be that POs who have domestic abuse, mental health, or substance abuse concerns use more measures because they already harbor such worries. It is also possible that a third variable that we did not measure could be driving these results.

These results about probation officers' use of assessment methods mirror results from prior studies that show: a significant relationship between concerns about domestic abuse and the numbers of methods used by court personnel to assess domestic abuse; and wide use of behavioral observation as an assessment method by mediators. One study found that the more evidence women provided to mediators (e.g., restraining order, fathers' belligerent actions, fathers' criminal histories),

the more likely their concerns were considered seriously by the mediator, and that “... the actions of the father during mediation may be one of the most important factors that mediators consider.”<sup>104</sup> The authors of this study go on to theorize that mediators in their study sample “...were following the rule for criminal justice systems—proof beyond a reasonable doubt. However because family court is a division of civil court, mediators should be following the rule of preponderance of the evidence ...” In other words, convincing a mediator that there is *no other logical or reasonable explanation for an allegation of IPV/A* (proof beyond a reasonable doubt) is far more difficult than showing that it is *more likely than not that IPV/A occurred* (preponderance of the evidence). While Massachusetts POs do not conduct mediation sessions (which differ from dispute interventions in that they are voluntary, confidential, and explore solutions to issues of mutual concern), both mediators and POs identify areas of dispute between the parties and try to resolve differences. Varying evidentiary standards could explain why POs identify safety concerns less frequently than litigants.

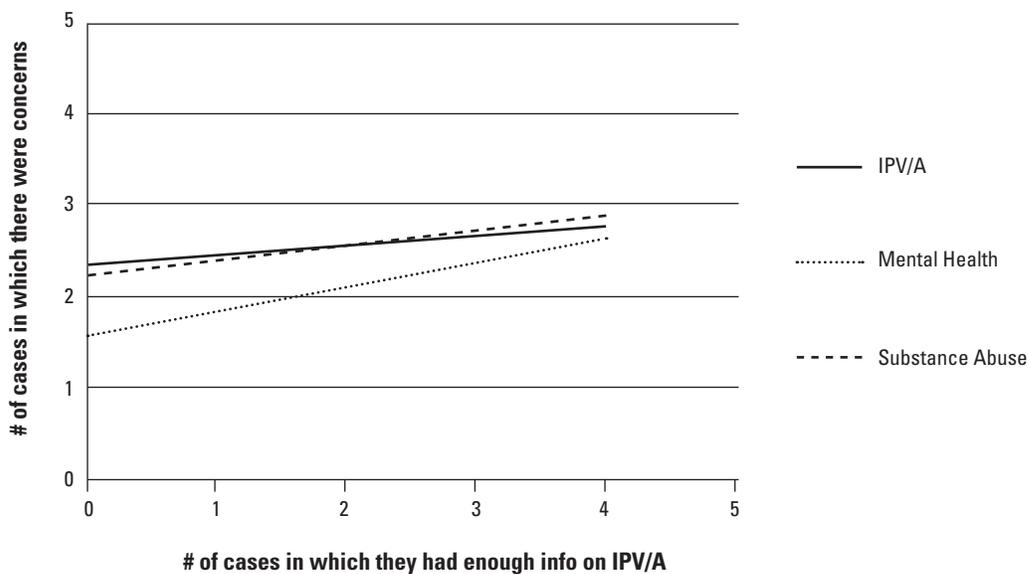
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## Judges’ Experiences With IPV/A, Child Safety, Substance Abuse, and Mental Health

For judges, the most important factor in helping IPV/A-victim litigants was feeling they had enough information to understand whether domestic abuse is present in a case, although they reported that this seldom happened. Seventy percent said they had enough information about domestic violence in half or less than half of their cases, and fifty percent felt they had enough information about the safety of children involved in half or less than half of their cases. The judges observed domestic violence, child abuse, substance abuse, or mental health concerns in less than half of their cases. Only ten percent of judges reported making note of these issues in more than half of the cases they saw—while litigants reported that their cases included these risk factors at least half the time. While these data raise questions about the effectiveness of current case processing practices because judges can overlook risk factors, medical professionals, couples’ therapists, and mediators who do not use validated IPV/A assessment tools also detect IPV/A at relatively low frequencies.<sup>105</sup> In addition, as we discussed earlier, the discrepancy between what POs document during the adjudication process and what litigants report on an anonymous survey leads us to conclude that there is an information gap in family courts. Accordingly, 40% of the judges we surveyed reported that litigants seldom provide enough information to enable to determine whether IPV/A is present in a case.

Judges' perceptions about having enough information to assess the presence of domestic abuse were significantly related to their concerns about domestic abuse,<sup>106</sup> substance abuse,<sup>107</sup> and mental health issues.<sup>108</sup> So, for judges, there is a strong correlation between having concerns about high-risk issues and feeling they lack adequate information about them. Although this correlation may indicate that judges who have concerns about high risk issues gather more information about IPV/A (because we asked judges whether they felt they had enough information) it is likely that, as shown by the figure below, the more information they have, the more likely they are to be concerned.

## JUDGES' SAFETY CONCERNS



Judges were significantly more likely than POs to express concerns about domestic abuse, mental health, and substance abuse possibly because judges handle a higher concentration of complex cases since POs must send such cases on to judges. Statistical analysis<sup>109</sup> revealed that judges' reports of the number of cases in which they observed these risks were significantly higher than those of POs.<sup>110</sup> Such assessment-related discrepancies may be the results either of communication issues between judges and POs or of the judges' need for more or better information about risk factors as discussed above. Inconsistency in the assessment of risk factors among court personnel may contribute to lower satisfaction among litigants regarding their case processing or outcomes, especially among those who feel caught between the differing perceptions of probation officers and judges. IPV/A victims may be endangered if the safety concerns of one court official are not taken into account by others.

# Best Practices in Court Approaches to IPV/A: Lessons from Criminal Courts in Other States

Since our research results show that there are gaps in Massachusetts’s family court case assessment processes, we investigated whether other states’ family courts handle IPV/A differently from those in Massachusetts and, if so, whether they might offer meaningful information for creating a roadmap to systemic change in Massachusetts.

However, after a review of extensive information from state court systems and national organizations that conduct research on state courts, we were unable to locate any notable *family court* models that systematically:

- refer victims to civil advocates;
- assess cases for IPV/A, substance abuse issues, and mental health issues and evaluate the efficacy of these assessment processes;
- check the quality of the information provided to judges; and
- attend to the comfort, safety, and concerns of litigants and their children.

While we did not find any family court (civil court) models, *criminal courts* in other states have developed methods for handling IPV/A, some of which can serve as models for the family court in Massachusetts, and perhaps offer a starting point for developing a model family court program in Massachusetts. In fact, the history of criminal courts’ approaches to domestic violence reveals that Massachusetts was once the home of innovation in this field, but, as we discuss below, Massachusetts has fallen behind.

In the past decade, the number of specialized “domestic violence courts” in the United States has risen steadily and the country now has more than 200 such programs, almost all of which sit within criminal courts.<sup>111</sup> These domestic violence courts have most often focused on improving restraining order processes and/or processing criminal charges for those accused of battering. Some domestic violence courts have successfully improved the identification of IPV/A cases, reduced re-abuse rates, and cut case processing times. These courts can also provide a better adjudication experience for IPV/A victims, making them more likely to report future abuse.<sup>112</sup>

In the U.S., there are three general models for domestic violence courts. The most common is the Dedicated Civil Protection Order Docket. These dockets deal almost exclusively with petitions for, and hearings about, violations of restraining orders. Some states, such as Michigan, use a criminal model, in which criminal

cases that include alleged IPV/A are separated out from other criminal cases and adjudicated by a judge with specialized training in IPV/A.<sup>113</sup>

Probably the most innovative model of is the Domestic Violence Court with Related Caseload. These courts merge civil proceedings, criminal hearings, and restraining orders into a single court division. There are several varieties of these domestic violence courts. In Integrated Domestic Violence Courts all matters are brought before the same judge, while in Unified Family Courts, the same judge is assigned to all civil matters for a family and criminal matters are handled elsewhere. In Coordinated Courts, cases involving IPV/A are assigned to the same court division, but not necessarily to the same judge.<sup>114</sup>

In New York, reform in the handling of domestic violence cases has resulted in the proliferation of domestic violence courts. Several use the criminal model, in which a dedicated judge not only oversees all cases involving domestic violence, but also monitors offenders' compliance with mandated treatment and orders of protection. The state also has many Integrated Domestic Violence Courts in which each family's criminal domestic violence cases are assigned to a single judge, who also handles all related civil cases, such as divorce, custody, or child support.<sup>115</sup>

Other states have implemented programs on a smaller scale for handling domestic violence cases. The Connecticut domestic violence courts focus on educating victims about court procedures and rehabilitating offenders, who can be mandated to sanctions ranging from completion of an online family violence education program to participating in an intensive 26-week treatment program. Maryland instituted the Protective Order Advocacy Representation Project in 2000, with the goal of providing a single site for advice, social service referrals, safety planning and legal representation for victims who need it. The project also works to remove obstacles in seeking restraining orders, going so far as to provide necessary transportation to victims. Finally, although New Jersey has not created any domestic violence courts, its court system has implemented a Domestic Violence Hearing Officer Program, in which each family court is assigned an officer with specialized training in working with domestic violence survivors. This officer oversees initial temporary restraining order hearings and makes recommendations to Superior Court judges.<sup>116</sup>

In the introduction to this report we noted that Massachusetts has been the home of two model domestic violence court programs in Quincy and Dorchester.<sup>117</sup> Both of these models focused on coordinating services to improve outcomes for victims. The Quincy District Court focuses on putting a state-of-the-art prevention program in place which coordinates the activities of court clerks, prosecutors, police officers, probation officers, and social service organizations in an attempt to ensure the safety of victims and the accountability of abusers. Trained clerks helped victims fill out forms, daily briefing sessions are held by the district attorney's office to

explain to victims the court process and their rights, protection order hearings are held twice each day, and judges meet regularly to determine whether a defendant's probation should be revoked, based on complaints or criminal violations.<sup>118</sup> While the Quincy program has met with some success, family cases that involve domestic violence are still difficult to navigate because of the lack of integration between civil and criminal proceedings. In fact, the Probate and Family Court occasionally issues orders that conflict with and supersede those of the District Court, even in this specialized program.<sup>119</sup>

The Domestic Violence Court in Dorchester, a pilot project that ran from 2000 to 2005, did not face the same jurisdictional issues as Quincy because it integrated civil and criminal proceedings related to restraining orders. This integrated approach led to broader success and IPV/A-oriented reforms in the police, prosecution, and probation departments. Police departments that serve the Dorchester area created or expanded their domestic violence units since the inception of the domestic violence court, creating a more efficient process and better protection for victims of domestic violence.<sup>120</sup> An evaluation of the project found that re-abuse rates declined over a period of eleven months.<sup>121</sup> The Dorchester court program was funded by federal grants, and, despite having won national acclaim, it closed its doors when the pilot ended and the funding dried up.

Despite the advances in courts' approaches to domestic violence, systematic assessment of domestic abuse remains challenging for all courts. The results of our study indicate that the information gathered from well-constructed systematic assessments could result in enormous improvements for IPV/A victims. Unfortunately, systematic assessment of IPV/A is rarely done either by courts or by other institutions. Thorough assessment processes, such as in-person interviews using a screening tool, are not universally employed by professional mediators. A recent survey of 94 mediation programs across the US showed that 45 percent of these centers conduct client interviews with a written screening tool, 42 percent use no screening tool and simply speak informally with clients, 28 percent use a written screening tool given to the client, six percent investigate court files for past abuse, and three percent depend on unsolicited information from clients.<sup>122</sup> Despite an extensive search, we were unable to find any studies to show how widely thorough domestic violence screening processes are used in family courts across the U.S.

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# Recommendations for Systemic Change

We set out to conduct a data-driven investigation of reports of poor conditions for IPV/A victims in the family courts. The snapshot data collection process successfully produced answers to some of our questions, confirmed other researchers' conclusions about family court approaches to IPV/A, and revealed questions that should be explored by further research. We now have a basic picture of *who* is in family court and *why* they are there.

## CHARACTERISTICS OF FAMILY COURT LITIGANTS IN MASSACHUSETTS

- 68% represent themselves in court.
- 57% are in court for a child-related matter (child support, child custody, visitation).
- 51% say the other person in their case has made them feel unsafe.
- 51% say the other person in their case has made them feel that their kids are unsafe.
- 38% say a mental health problem is associated with their case.
- 33% say a substance abuse problem is associated with their case.

As we stated in the introduction to this report, the Commonwealth must address family court operations as part of a sound, overall strategy to improve conditions for IPV/A victims. Based on the information we uncovered about gaps in the case assessment process and what litigants experience while in family court, we can recommend the following systemic changes

### SYSTEMIC CHANGE #1:

**Improve the quality of case information given to judges by making comprehensive IPV/A, substance abuse, mental health, and child trauma assessments a mandatory part of the dispute intervention process.**

For various reasons, POs do not now employ systematic, evidence-based practices to assess cases for co-occurring morbidities.<sup>123</sup> The half of all family court cases that involve IPV/A or unsafe conditions for children and the third that involve substance abuse or mental health issues cannot be properly adjudicated without a comprehensive assessment program. The Domestic Violence Screening Pilot

Project executed in the Norfolk Probate and Family Court has already demonstrated the utility of limited assessment. Judges' reports about insufficient information for high-risk cases are the ultimate testament to the need for change in this area.

As in healthcare settings, assessments in courts of IPV/A, child trauma, mental health, and substance abuse should use validated assessment tools. Results of these assessments should be communicated to judges using a standard, comprehensive report format. An effective assessment program will include regular data collection on the assessment process itself, assessment outcomes, case outcomes (as measured by modification or contempt), and the costs and benefits of the program. These periodic evaluations should be used to make regular adjustments to the problem.

Systematic, comprehensive assessments will increase referrals to batterer treatment, substance abuse treatment, mental health treatment, and other ancillary human services. Mandated assessment will therefore necessarily expand the official role of POs, requiring them to become educated in the practice of conducting assessments and monitoring litigants' progress in treatment programs. These are specialized skills that call for continuing education and certification programs.

Lastly, we note that IPV/A assessments require victims to divulge sensitive information and therefore to expose themselves to increased risk, so these assessments must be done in conjunction with safety planning. Safety planning is best performed by a SAFEPLAN advocate or similarly trained professional. Consequently, access to such advocates should be improved and increased.

## **SYSTEMIC CHANGE #2:**

### **Improve access to civil-legal advocates and increase their numbers.**

Pro se litigants overwhelm the Probate and Family Courts handicapping the system's ability to adjudicate complex cases. The resulting disorder can cause multiple, overlapping difficulties in case processing. Civil-legal advocates,<sup>124</sup> who should be available to unravel some of the problems, are not used as often or as effectively as they might be. The current number and type of civil-legal advocates available to assist *pro se* litigants varies from court to court and from county to county. Some counties have advocates provided by the District Attorney's office while nine counties have federally funded SAFEPLAN advocates. Non-government domestic violence advocacy organizations are sometimes able to provide legal advocates as well, but funding for such positions is precarious and it can be difficult to ensure the quality of such services.

Given that a majority of litigants experience IPV/A and/or another risk factor and that most litigants are reluctant to self-report such problems, it follows that there should be a strong demand for civil-legal advocates. Expanding and strengthening

the civil-legal advocate corps would enhance the court experience for litigants as well as improve their ability to disclose important information to court personnel. Court personnel, including security officers, should be advised to direct litigants to these advocates if there is any indication of a high-risk situation. At the very least, multi-lingual flyers about civil-legal advocacy services should be readily available throughout the courthouse.

### **SYSTEMIC CHANGE #3:**

#### **Increase litigant satisfaction and improve compliance with court orders by improving litigants' in-court experiences.**

While we found no evidence of overt gender bias in family court proceedings, litigants in cases involving IPV/A seldom report satisfaction with the court system. The danger in such dissatisfaction is that either the disgruntled parties will either repeatedly visit the courts (presenting substantial practical and financial strains on the system) or they will not comply with court orders. Making both court *processes* and court *facilities* more litigant-friendly can mitigate litigant dissatisfaction.

#### **Making the family court process more litigant-friendly**

Not only does poor treatment of litigants undermine the goal of encouraging them to disclose necessary information about their cases, it can also subvert the goal of ensuring compliance with court orders. Nationally the rate of compliance with child support orders has dropped substantially in recent years, demonstrating that noncompliance with court orders can even affect the economy.<sup>125</sup>

Compliance with court orders is particularly important for IPV/A victims, who rely on court to help them stay safe. “Given the likelihood that a victim will resume some form of contact with her abusive partner in the aftermath of official intervention, factors affecting future compliance assume major significance for victim safety.”<sup>126</sup> Indeed, the Office of the Commissioner of Probation studied the connection between compliance and safety in a 2004 report on recidivism for restraining order violators.<sup>127</sup> Recently, the office set a goal of increasing compliance with supervised visitation conditions as a goal.<sup>128</sup>

While the complaints expressed by dissatisfied fathers and mothers may or may not have merit, their negative perceptions erode their trust and confidence in the system, making it easier for them to ignore the court's authority. This premise, when combined with our finding that participants in high-risk cases express greater levels of dissatisfaction with the courts, leads to the conclusion that procedural justice is not present in the cases that need it the most. As noted above, procedural justice is achieved when the parties:

- are given an adequate chance to speak;
- perceive that court staff, including judges, treat them with respect;
- perceive that the decision making is neutral and trustworthy;
- understand the adjudication process, their rights, the decisions that have been made; and
- perceive that court personnel are doing everything possible to be helpful.<sup>129</sup>

The courts should therefore educate court personnel about the tenets and importance of procedural justice as a first step toward improving the institutional attitudes and practices that lead litigants to disrespect the court's knowledge and authority.

We must also empower litigants by offering them educational tools such as information desks or kiosks in every courthouse, court orientation programs, brochures, and videos. Such tools should be available in multiple formats (including web-based formats) and multiple languages.

### **Making court facilities more litigant-friendly**

Americans expect clear signage in public institutions such as post offices and airports and courthouses should be no exception, especially since the remedy is relatively simple and inexpensive. The courts must become more proactive in ensuring litigants' privacy, especially given the safety-related implications for IPV/A victims. Field observations from our court visits raised several concerns about litigant privacy including dispute interventions conducted in public spaces, courthouses with thin walls (Salem), acoustics that enable people on separate floors to hear each others' conversations (Norfolk),<sup>130</sup> and a dearth of spaces for litigants to conduct private meetings with advocates or attorneys. Remedies for privacy problems would vary from courthouse to courthouse. But, as with signage, even small measures, such as posting frequent signs directing litigants to respect personal privacy within the courthouse, would significantly improve privacy conditions.

## **SYSTEMIC CHANGE #4**

### **Foster a culture of innovation at both the local and statewide levels.**

The courts have begun to modernize by addressing fundamental problems such as the jurisdictional issues between district courts and family courts with respect to restraining orders. However, cost-cutting policies and a general lack of resources have eroded the Massachusetts family court system's ability solve problems through innovation.

Massachusetts was once the home of two pioneering court approaches to IPV/A. In less than a decade, however, the Commonwealth has lost its foothold on the future. Every effort should be made to recapture its once lauded reputation by rebuilding on the Dorchester and Quincy programs, and by developing similar programs in the family courts. Like other states, Massachusetts should develop coordinated courts (sometimes called integrated domestic violence courts). Massachusetts could expand on models in other states by offering specialized services for vulnerable or under-resourced populations such as children, immigrants, and the disabled.

Some POs told our researchers about procedures they were trying on their own to try to improve outcomes in high-risk cases. Such innovation often happens at the local level. Programs such as competitive mini-grants for pilot projects, allowing local courts to access grant programs such as those offered by the State Justice Institute and private philanthropies, and an annual statewide conference where local courts could share their ideas would encourage such innovation. Some state court systems even offer awards for innovation.<sup>131</sup> Modernization often takes place when court professionals are exposed to the latest ideas and information available from around the country. For this reason, the severe budget constraints that restrict court personnel from attending conferences outside of Massachusetts must be remedied.

## **SYSTEMIC CHANGE #5**

### **Increase research and promote data-driven policy-making.**

Improving court approaches to IPV/A requires ongoing research dedicated specifically to family courts to pinpoint trouble spots, gauge the changing needs of a changing population, and develop best practices. Because family courts are overlooked as first responders to IPV/A, little national research exists that can help inform state court systems. Instead, the burden of gathering information in this dynamic field generally falls to states and localities. Conducting ongoing research on an institution as large and complex as the family court system can be daunting. However, this snapshot project, as well as periodic research efforts conducted by the courts and by the Office of the Commissioner of Probation, demonstrate that even modest research efforts can yield meaningful results for both court users *and* court personnel. Developing a knowledge-based culture is necessary to foster innovation.

## Conclusion

While family court is not the only avenue to mitigating IPV/A, breaking the IPV/A cycle is not possible without changing this institution. This is because family court, perhaps more than any other first responder, affects the lives of children profoundly. There is strong evidence that exposure to IPV/A affects children's intellectual and emotional development. The violence that a child sees at home becomes violence that he or she may re-experience in the future. Many victims either perpetrate violence as adults (including criminal violence) or become victims of abuse themselves.<sup>132</sup> IPV/A is also linked to homelessness, substance abuse, and attempted suicide. Thus, the fingers of IPV/A reach far into the lives of both children and adults, imposing a strain on courts that is larger than the boundaries of any single case on any given day.<sup>133</sup> Family courts need systemic reforms to address the growing list of challenges that burden them. Without such changes, the effects of co-occurring risks, poorly informed litigants, inadequate case assessments, and distrust of the family court system will lead to ongoing problems for litigants and their children. The negative IPV/A trends in Massachusetts will continue into the future unless the courts and other institutions that deal with families in crisis implement reforms that enable them to become more adept at serving them.

With the current reconfiguration of the Office of the Commissioner of Probation, the Commonwealth of Massachusetts has an ideal opportunity to transform the family courts. However, neither improvements nor innovations can happen without access to sufficient resources. Funding for the Massachusetts trial court system's fiscal year 2011 budget declined by 10.1 percent from the fiscal year 2009's initial appropriation and the system has lost more than one thousand employees since 2008.<sup>134</sup> Severe budget and staff reductions compromise the court system's ability to offer even basic services to children and families. The measures we have recommended: adopting evidence-based case assessment; spurring local innovation, utilizing the tenets of procedural justice; and conducting ongoing research will require increasing the court budget. With sufficient resources and a strong commitment to systemic change, Massachusetts could regain its position as a source for judicial best practices that improve conditions for IPV/A victims and for all family court litigants.

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## END NOTES

1. IPV/A is often colloquially referred to as domestic violence, but IPV/A is a more inclusive and descriptive term. "...[I]t includes physical abuse (e.g., pushing, shoving, hitting, punching, kicking, biting, scratching, twisting skin) physical violence (i.e., physically forced sex, broken bones, choking strangling, suffocating) and important non-physical types of abuse identified as important within the violence literature (psychological abuse; threats to life) and in particular the concept of coercive control." (Beck & Raghavan, 2010, p.555) For purposes of this report, we use this term interchangeably with the phrase "domestic abuse" which is the term we used in our research and is defined by chapter 209(a) of the Massachusetts General Laws as: a)attempting to cause or causing physical harm; b) placing another in fear of imminent serious physical harm; and/or c)causing another to engage involuntarily in sexual relations by force, threat or duress. We also included coercive control, verbal abuse, financial abuse, and neglect in the definition of domestic abuse. It is important to note that psychological abuse can be as harmful as physical abuse, but people who come before the court are often able to produce hard evidence only of physical abuse. Psychological abuse is far more difficult to demonstrate to the court.
2. This compares to more than 1 in 3 victims of violence by an intimate partner nationally. For purposes of the survey, the CDC defines "violence by an intimate partner as "rape, physical violence, and/or stalking by an intimate partner in their lifetime." (Black, et al., 2011, p. 2)
3. [www.wickedlocal.com/wayland/topstories/x221020265](http://www.wickedlocal.com/wayland/topstories/x221020265)
4. An April 2012 news report showed that both domestic and sexual violence are at epidemic levels in Massachusetts. <http://www.wbur.org/2012/04/10/domestic-sexual-violence>.
5. Salzman, 1994, p. 332.
6. There were 42 murders related to domestic violence in 2007 and 28 such homicides in 2006. *Domestic Violence Homicides in Massachusetts Tracking Analysis 2003-2012 YTD*, Jane Doe, Inc. Boston, MA (November 2012)
7. MassLive.com, Thursday, June 8,2008
8. *Domestic Violence Homicides in Massachusetts Tracking Analysis 2003-2012 YTD*, Jane Doe, Inc. Boston, MA (November 2012)
9. Ibid.
10. Between 2003 and June of 2012, there were 258 domestic-violence related homicides in the state. Ibid.
11. Bureau of Justice Statistics Special Report, Intimate Partner Violence, May 2000, NCJ 178247
12. A 2004 study of 456 women who were killed or almost killed by an intimate partner revealed that out of all the women who were killed, only four percent had contacted a shelter, 38 percent had contacted the police, and 47percent had contacted a health care professional in the year prior to their deaths. Therefore, some had not contacted anyone, and even for those who did seek help, IPV/A was not always their first priority. (Campbell, 2004, pp. 1471-1473) In a study for the Department of Justice, researchers found that almost every non-Latina abused woman in the study had sought help after an incident of inter-personal violence, either informal help (talking to someone) or formal help (medical, counseling, contacting the police). But twenty percent of Latina women reporting a severe or life-threatening incident of abuse did not seek any help at all, formal or informal. (Block, 2003, p. 6)
13. Petersen, 2005
14. Bell, et al., 2011, p. 72
15. Epstein, 1999
16. (Black, et. al., 2011, p. 4)
17. For a diagram of the Massachusetts Court System see Appendix A.
18. In Massachusetts, family courts can issue restraining orders, but not all states' family courts have this capacity.
19. One study found that IPV/A generally does not come to the attention of individuals outside the home until the legal system becomes involved. (Vatnar & Bjorkly, 2009).
20. "An agency where patronage is job one," Scott Allen, Marcella Bombardieri, Andrea Estes, Thomas Farragher, *Boston Globe Spotlight Series*, May 23, 2010
21. This body served under Governor Mitt Romney and was chaired by Lieutenant Governor Kerry Healey. Governor Deval Patrick has appointed a new Governor's Council to Address Sexual and Domestic Violence chaired by Lieutenant Governor Timothy Murray.
22. The snapshot approach was inspired by the California Family Court Services Snapshot Study of 1991 and the many years of follow-up work done by that office. Reports on this work can be found at the website for the California Courts, Center for Families, Children and the Courts, <http://www.courts.ca.gov/cfcc-publications.htm#acc12606>.
23. Continuing support was provided by both The Boston Foundation and the Mabel A. Horne Philanthropic Trust.
24. The Brockton courthouse, one of our data collections sites, does have an information desk staffed by a volunteer for a few hours each day. Unfortunately, the "desk" is a small table and is not well-marked as an information desk. As of May 2013, probate and family court administration reports that the Norfolk court now has a welcome desk.
25. Massachusetts Supreme Judicial Court rule 1:18 defines dispute intervention as "a process used in the Probate and Family Court and in the Housing Court in which a neutral identifies the areas of dispute between the parties, and assists in the resolution of differences." Mediation is defined as "a voluntary, confidential process in which a neutral is invited or accepted by disputing parties to assist them in identifying and discussing issues of mutual concern, exploring various solutions, and developing a settlement mutually acceptable to the disputing parties." <http://www.massreports.com/courtrules/sjcrules.aspx#Rule1:08>
26. Information for this diagram was provided by the Massachusetts Administrative Office of the Trial Court.
27. <http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/>
28. Annual Report of the State of the Massachusetts Court System, FY 2011 (Feb. 2011).

29. According to MassLegalHelp.com, "The new (2010) Harassment Prevention Order law (General Laws Chapter 258E) makes it so that victims of criminal harassment, stalking, and sexual assault, regardless of their relationship with the defendant, can get harassment prevention orders (258E orders) to protect them from further harassment by the perpetrator. " Before harassment prevention orders were introduced, restraining orders (referred to as Abuse Prevention Orders) could only be issued to protect victims from a current or former family member, a member of their household, or from someone with whom they had a "substantial dating relationship." <http://www.masslegalhelp.org/domestic-violence/harassment-prevention-orders>
30. Annual Report of the State of Massachusetts Court System, FY 2011, Feb. 2011. The number of restraining orders and harassment prevention orders includes those orders filed in the District Court, the Boston Municipal Court, and the Probate and Family Court .
31. This calculation assumes that each case (including restraining orders) recorded by the court system corresponds to one set of litigants. However, a single family may be involved in multiple cases (case overlap is not tracked in court statistics) so it is possible that fewer people are involved in family court cases than represented by this estimate.
32. <http://www.ncsconline.org/wc/publications/memos/pros-tatsmemo.htm>
33. Tsai, 2000
34. Because the Probate and Family court was the object of our study, we refer mostly to that court as the predominant forum for adjudicating family law-related matters, though, as stated earlier in the report, we recognize that in Massachusetts, District Courts issue, on average, eighty percent of restraining orders and therefore play a significant role in mitigating IPV/A.
35. For the purposes of this study we define "high-risk" cases are those which involve IPV/A and/or associated risk factors like substance abuse, mental illness, and child trauma.
36. According to one researcher, "judicial misbehavior" presented the most significant obstacle to the model domestic violence court in Quincy, MA. (Salzman, 1994, p. 353)
37. Massachusetts Administrative Office of the Trial Court. (2003).
38. *REPRESENTING YOURSELF IN A CIVIL CASE: Things to Consider When Going to Court.* <http://www.mass.gov/courts/admin/ji/repyourself.html>
39. "A Guardian ad Litem (or GAL) is typically a person appointed by a court to represent the best interests of minor children involved in a legal dispute. In Massachusetts, a GAL might be an attorney or a licensed mental health professional such as a doctor or a social worker. . . . Typically, a judge will appoint a professional from a list of GALs who are listed with the court to perform such evaluations/investigations. . . . GALs are expected to have experience in conducting court-appointed evaluations/investigations, participate in regular educational conferences or workshops, and adhere to the relevant guidelines or standards of their profession. . . . Often, the Court instructs the litigating parties to pay out-of-pocket for the GAL evaluation/investigation. Occasionally, when there is financial need and funds are available, the court can direct that the Commonwealth pay for GAL services." From the website of MAGAL, the Massachusetts Association of Guardians ad Litem, Inc., <http://www.magalinc.org/faqs/>
40. This work is scheduled for completion in 2013.
41. The federal Violence Against Women Act's (VAWA) Services, Training, Officers, and Prosecutors (STOP) program funds the Grant Coordinator position in the Massachusetts Administrative Office of the Trial Court. The Grant Coordinator is charged with implementing the mission of the STOP program within the court system and with the court system's partner agencies and organizations. The STOP program mission promotes a coordinated, multidisciplinary approach to enhancing advocacy and improving justice system responses to violent crimes against women (<http://www.ovw.usdoj.gov/ovwgrantprograms.htm#17>).
42. Lind, et. al., 2011, p. 6.
43. *Ibid.*, p. 13
44. *Ibid.*, p. 13
45. A "parenting schedule" is the schedule of when the child is in the care of each parent when the parents share custody of a child.
46. Lind, et. al., 2011, p. 13.
47. Epstein, 2001
48. [www.fathersandfamilies.org](http://www.fathersandfamilies.org)
49. Parental Alienation Syndrome (PAS) is a term used in child custody cases to describe one parent's manipulation of a child to harm the other parent. "PAS involves a combination of a brainwashing by the alienator parent and the child's own contributions to the vilification of the target parent." PAS is not currently considered a syndrome by the American Psychological Association. <http://definitions.uslegal.com/p/parental-alienation-syndrome/> In 2012, despite vigorous lobbying, the APA did not list PAS in its Diagnostic and Statistical Manual of Mental Disorders. A spokesperson for the APA stated that "Relationship problems per se are not mental disorders." <http://www.boston.com/lifestyle/health/2012/09/21/psychiatric-group-parental-alienation-disorder/T4LXRkseyoCRDfuJUffeN/story.html> (boston.com, September 12, 2012)
50. As reported by *For the Record*, the official newsletter of CPF/The Fatherhood Coalition, Volume 8 Issue 1, February 2005. Massachusetts has a total of 160 single-member house districts and 40 single-member senate districts, so the initiative was placed on the ballot in about 25 percent of the house districts in the state. The initiative gained the support of 85 percent of the electorate in the districts where it was on the ballot. The salient language of the ballot initiative asked voters if their state representative should "be instructed to vote in favor of legislation requiring that in all separation and divorce proceedings involving minor children, the court shall uphold the fundamental rights of both parents to the shared physical and legal custody of their children and the children's right to maximize their time with each parent, so far as is practical, unless one parent is found unfit or the parents agree otherwise, subject to the requirements of existing child support and abuse prevention laws?"
51. This presumption has been described as " . . . a rebuttable presumption of equal residential custody. If legislated, the law would mean that when parents cannot reach a mutual agreement on the kind of parenting plan they think is best for their children, the children would live equal time with each of them as long as both were 'fit and loving' parents." (Nielsen, 2011, p. 587)

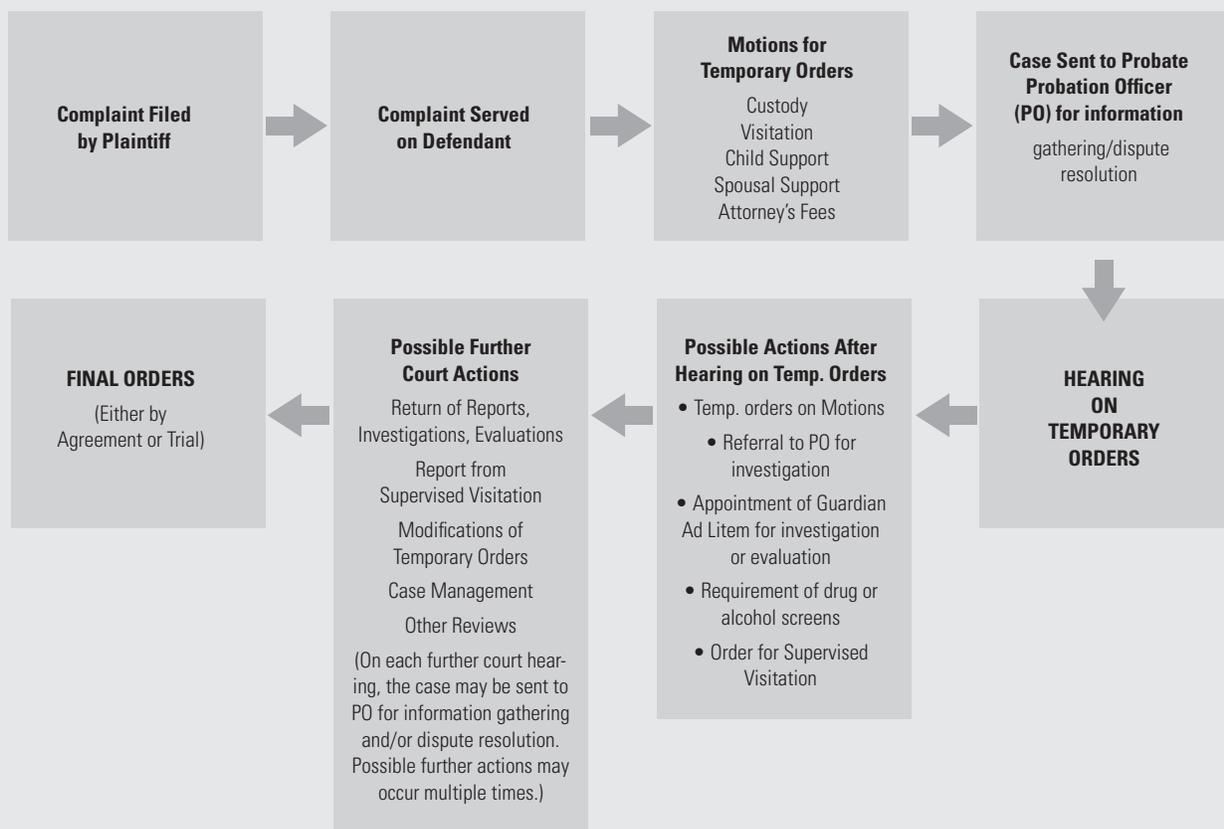
52. Rosen, Dragiewicz & Gibbs, 2009 In Massachusetts, a rebuttable presumption of shared parenting could render the child-support guidelines inapplicable and leave child-support determinations to the discretion of the judge.
53. A national study conducted by the U.S. Bureau of Justice Statistics found that 84 percent of spouse abuse victims in were females. (Durose, 2005, p. 31)
54. Bell, et al., 2011, p. 73
55. [http://www.massmoms.org/index\\_files/Page1233.htm](http://www.massmoms.org/index_files/Page1233.htm)
56. Parenting coordinators are appointed by the court to mediate ongoing disagreements between parties when there is a high level of conflict (typically custody or visitation cases). They are often lawyers or mental health professionals, but their role is not defined by statute. Coordinators follow their assigned cases closely and make recommendations to help resolve disputes so that the parties do not have to go to court for each disagreement. According to a widely respected family law manual for low-income litigants, "A parenting coordinator is likely not appropriate if you have a history of domestic violence. . . . Generally their role is to resolve disputes that your court orders do not cover. In general a parenting coordinator should not be appointed unless both parties agree that a parenting coordinator should be appointed, and can afford to pay for the parenting coordinator, although this practice varies from court to court." Bowman, et al., 2008 p. 283
57. The problem of a desensitized institutional culture has been recognized by at least one Massachusetts court. "Domestic violence is an issue too fundamental and frequently recurring to be dealt with only by implication. The very frequency of domestic violence in disputes about child custody may have the effect of inuring courts to it and thus minimizing its significance. Requiring the courts to make explicit findings about the effect of the violence on the child and the appropriateness of the custody award in light of that effect will serve to keep these matters well in the foreground of the judges' thinking. Custody of Vaughn, 422 Mass. 590, December 7, 1995-May 7, 1996, Nantucket County. pp. 599-600.
58. Johnson, et al., 2005, p. 1046.
59. Rivera, Zeoli & Sullivan, 2012. This study validated results of earlier studies conducted in 2005 (Johnson, Saccuzzo & Koen, 2005) and 2010 (Beck, Walsh, Mechanic & Taylor, 2010).
60. Tsai, 2000
61. Cuthbert, et al., 2002
62. See Appendix B for pilot survey instruments.
63. The inability of IPV/A victims to disclose abuse is well documented. (Heckert, 2000).
64. See Appendix C for the final phase survey instruments.
65. Survey distribution to probation officers and judges was handled by court staff. Therefore, we are unable to report the total number of surveys distributed to these groups. However, project staff repeatedly followed up with court staff to ensure that most surveys distributed to judges and probation officers were returned.
66. The comparison was done using a Chi Square test, which determines whether an observed frequency (such as the percentage of respondents who attended college) is different from an expected frequency (such as the percentage of Massachusetts citizens who went to college).
67.  $p < .01$
68.  $p < .05$
69. An interrater reliability measure using the Kappa statistic was performed in order to determine consistency among coders for the quantitative data. Respondent comments and researcher observations (qualitative data) were coded by one researcher and analyzed by that researcher separately from the quantitative responses using qualitative analysis software.
70. Litigants were not eliminated from the study if they did not answer all survey questions. Thus, percentage frequencies presented here are based on the number of answer for a given question, not the total number of respondents. There were no demographic differences between those respondents who answered each question and those who did not.
71. The final-phase survey for judges was intentionally much shorter than the litigant or PO surveys because we were advised by court staff that judges have little time to complete surveys such that we would receive a higher response rate and more valuable information if we gave judges the option to offer their observations if they had the time to do so.
72. Judges' observations differ from POs' observations because judges only see those cases that do not reach resolution in dispute intervention, therefore they naturally see more cases that involve difficult conflicts.
73. Every court we visited had personnel (usually a domestic violence advocate) on site for such referrals, with the exception of the Salem court.
74. 75% v. 47%;  $\chi^2 = 17.11$ ,  $p < .001$
75. 45.5% v. 57.1%;  $\chi^2 = 2.62$ ,  $p = n.s.$
76. 35.4% vs. 31.5%;  $\chi^2 = 0.34$ ,  $p = n.s.$
77. 44.3% vs. 33.9%;  $\chi^2 = 2.26$ ,  $p = n.s.$
78.  $\chi^2 = 68.22$ ,  $p < .001$
79. substance abuse:  $\chi^2 = 8.02$ ,  $p < .01$ ; mental health:  $\chi^2 = 27.61$ ,  $p < .001$
80. Klein, 2009, p. 17
81. Ibid.
82. Ibid., p. 23
83. Ibid., p. 29 Note that victim substance abuse can also be a consequence of domestic violence as victims can try to overcome trauma using medication.
84. Lipsky et. al. (2006) are studying the relationship between IPV, substance abuse and social service utilization, with a focus on racial and ethnic differences among abused women (8). Women with IPV history, compared with women without, were 10 times more likely to have utilized an alcohol program. Hispanic victims were much less likely to use services in general.
85. However, because respondents' interpretation of the word "safety" can vary, these questions may have elicited responses referring to dangers not related to IPV/A. (see page XX)
86. Heckert, 2000. Vatnar & Bjorkly, 2009.
87. Heckert, 2000, p. 181
88. Vatnar & Bjorkly, 2009, p. 232
89.  $t(141) = 0.02$ ,  $p = n.s.$
90.  $t(153) = -0.47$ ,  $p = n.s.$
91.  $r = -.205$ ,  $p < .05$

92.  $r = .477, p < .01$
93.  $r = .467, p < .01$
94.  $r = .610, p < .01$
95. In one example, a female litigant seeking custody of her fiancé's children from his first marriage said, "Judge X made a public statement in the courtroom that I [and my child with my fiancé] had no right being there to support my fiancé and also has made disrespectful remarks towards our relationship [which is biracial]."
96. Epstein, 2001
97. Berman & Gold, 2012
98. Berman & Gold, 2012
99. Kitzmann & Emery, 1993
100.  $M = 2.38$ . The Office of the Commissioner of Probation estimates that POs generally handle three dispute interventions per day (information provided by the Office in July 2012), confirming our results.
101. The Warrant Management System (WMS), contains information on all outstanding warrants. In every restraining order case, the WMS is checked for the defendant and sometimes for the plaintiff. The Court Activity Records database (CARI), includes records of all criminal activity including information from the Statewide Registry of Civil Restraining Orders. CARI checks are run on both parties in family court cases in which there is a child-related matter. A CARI check can also be run on a plaintiff in a restraining order case in order to determine whether the parties have restraining orders against each other. CARI and WMS will soon be rolled into the new MASSCOURTS system in the very near future so court personnel will use a single system to access all procedural information about a case from docket numbers to orders.
102. In order to determine the relationship between the number of measures a PO. used to assess IPV/A and their IPV/A concerns, a simple regression was used. This statistical procedure allows you to find the variable (in this case, the number of assessments a PO used) that can best predict an outcome (here, a PO's domestic violence concerns).  $F(1, 38) = 9.04, p < .01$
103.  $F(1, 36) = 24.78, p < .01$ ;  $F(1, 33) = 21.16, p < .01$
104. Rivera, et al., 2012
105. Holtzworth-Munroe, 2010, p. 647
106.  $r = .764, p = .01$
107.  $r = .764, p = .01$
108.  $r = .776, p < .01$
109. The Independent samples Mann-Whitney U Test, a statistical test that determines whether the observations from one group are different from the observations from another group when the groups are not equal in size, was used to determine this.
110.  $p < .01$  for all
111. Sack, 2002
112. Klein, 2009
113. Shelton, 2007
114. Shelton, 2007
115. Shelton, 2007
116. National Center for State Courts, 2002.
117. In addition, Massachusetts has the Family Justice Center (FJC) of Boston, a program of the Boston Public Health Commission, an initiative of Mayor Thomas M. Menino and Suffolk County District Attorney Daniel F. Conley, and the Family Justice Division of the Boston Police Department. The FJC "...is a community of agencies providing direct services to individuals and families in the City of Boston (and beyond) who have been affected by and/or exposed to domestic violence, sexual assault, child abuse or human trafficking." <http://www.bpdnews.com/resources/family-justice-center/> The FJC does not adjudicate cases, but coordinates intervention and prevention services for IPV/A victims.
118. Maytal, 2008
119. Ibid.
120. Ibid.
121. Klein, 2009
122. Clemants & Gross, 2007, p. 422
123. We note that according to the Office of the Commissioner of Probation, the office is actively pursuing the goal of "providing timely and thorough information to the court in the investigation and case intervention referrals."
124. Civil-legal advocates are specially trained personnel who provide assistance to victims of violence with court matters such as completing forms, accompaniment to the courthouse, access to attorneys, and access to social services such as housing assistance. They are usually employed by non-profits that work with victims of violence or by government agencies.
125. "Custodial parents receiving the full amount of child support due declined between 2007 and 2009, from 46.8 percent to 41.2 percent. Of the \$35.1 billion in child support due in 2009, 61.0 percent was reported as received, averaging \$3630 per custodial parent who was due support. Child support represented 62.6 percent of the average income for custodial parents below poverty who received full support." Grall, 2011, p. 1
126. Epstein, 2002 p. 1871
127. Bocko, 2004 This eight-year-old study now requires follow-up.
128. Information provided by the Office of the Commissioner of Probation (July 2012)
129. Berman and Gold, 2012
130. This courthouse is constructed in the round such that there is an open, circular atrium that runs from the ground floor to the top floor. Because of the acoustics associated with the atrium, it is possible to hear conversations from across the atrium or even from one floor to another. Court visitors should be warned accordingly.
131. See a description of California's Kleps awards program at <http://www.courts.ca.gov/programs-innovations.htm>
132. Salzman, 1994, p. 331 This phenomenon is often referred to as "intergenerational transmission of violence."
133. Ibid., p. 333
134. Annual Report Report of the State of the Massachusetts Court System, FY 2011, Feb, 2011, p. 15.

# Appendix A

## Diagram of the Massachusetts Court System

### A DOMESTIC RELATIONS CASE IN THE PROBATE & FAMILY COURT<sup>26</sup>



# **Appendix B**

## **Pilot Phase Surveys**

# Family Court Snapshot Data Collection Project

## Pilot Survey Instruments (2009)

## **Family Court Snapshot Data Collection Project – Description of What We Are Doing**

The purpose of this research is to collect basic information about domestic relations (family court) cases in Massachusetts. Massachusetts courts currently do not collect specific information on certain kinds of family court proceedings. Not having this information could be creating some problems such as:

- a) possible misinformation about how well the courts serve domestic violence survivors and their children;
- b) difficulties with accountability for either the court staff or the litigants, or problems with accessing justice;
- c) an inability to define the exact problems, if any, that exist in processing domestic violence cases; and
- d) an inability to create effective solutions, in the absence of adequately defined problems.

This project is first effort to provide some of the needed, missing information. We plan to gather this information by administering a short survey on the experiences of judges, litigants, and probation officers who are involved in certain cases that appear in two to three selected courts over the course of three days in each court.

The results of this work could lead to improvements in the availability and/or quality of resources for litigants and court staff

### **IMPORTANT NOTE**

**Participation in this project is not required and is completely voluntary. No names or other identifying information is requested. All answers will be kept strictly confidential and all data will be stored in a secured location.**

**Taking part in this survey is not required. It will not ask for names or other identifying information. Please do not offer your name or any other identifying information. You are not required to answer every question. Please answer the questions truthfully. No answers will be shared.** If you have questions about this survey, please call 1-866-203-1385 (toll free).

### **WHEN YOU HAVE COMPLETED THE SURVEY**

If you are still in the courthouse, please return it to one of the research staff members  
OR

Mail it in the attached self-addressed postage paid envelope to:

**G&J Project, WCW, Waban House  
106 Central Street  
Wellesley, MA 02481**

***Thank you for your participation!***

## Family Court Snapshot Data Collection Project Litigant Feedback Survey 2009: Part A

We are gathering information about domestic relations cases. Please help us measure our services by completing this survey. **Taking part in this survey is not required. It will not ask for names or other identifying information. Please do not offer your name or any other identifying information. You are not required to answer every question. Please answer the questions truthfully. No answers will be shared.** If you have questions about this survey, please call 1-866-203-1385.

### Section I. Information About Your Case

1. Why were you at court today? [Check all that apply.]

Restraining Order                       Custody                      Other: (please describe) \_\_\_\_\_  
 Divorce                                       Child Support  
 Establishing Paternity                   Guardianship  
 Visitation                                     Not sure

2. Type of hearing?

Pre-trial conference     Trial                       Motion                       Not sure                       Contempt  
 Other: (please describe) \_\_\_\_\_

### Section II. Court Access, Assistance and Experience

Please tell us about your court-related needs.

	Not Applicable	Yes	No	Reason(s) or Description
3. Were you represented by an attorney today?				
3a. If no, were you referred to the Lawyer for the Day?				
3b. If yes, are you paying for legal services?				
4. Did you need an interpreter?				
4a. Please specify language (including sign language).				
4b. Was an interpreter provided?				
5. Do you have a disability?				
5a. If yes, please describe.				
5b. If yes, was the courthouse accessible to you?				

Please tell us how attentive these professionals were today.

	Not Applicable	Not at All Attentive	Somewhat Attentive	Attentive	Very Attentive	Extremely Attentive
6. Court Staff						
7. Court Interpreter						
8. Advocate (non-lawyer)						
9. Guardian Ad Litem						
10. Probation Officer						
11. My attorney						
12. Lawyer for the Day						

If you met with a Probation Officer TODAY, please complete questions 13-19.

P.O. = Probation Officer (sometimes referred to as a Family Service Officer)	Not Applicable	Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree
13. I believe the P.O. listened to my side of the story.						
14. I believe the P.O. understood my financial concerns.						
15. I believe the P.O. understood my relationship with my child.						
16. I believe the P.O. considered my child(ren)'s interests.						
17. I feel the P.O. handled my case fairly.						
18. I feel the P.O. treated me with respect.						
19. I believe the P.O. had the information necessary to handle my case.						

If you have met with this Probation Officer IN THE PAST, please complete questions 20-26.

	Not Applicable	All of the Time	Most of the Time	Some of the Time	Not Usually	Never
20. I believe the P.O. listened to my side of the story.						
21. I believe the P.O. understood my financial concerns.						
22. I believe the P.O. understood my relationship with my child/children.						
23. I believe the P.O. considered my child(ren)'s interests.						
24. I felt that the P.O. handled my case fairly.						
25. I felt that the P.O. treated me with respect.						
26. I believe the P.O. had the information necessary to handle my case.						

Please tell us about what you have experienced with this case.

	Not Applicable	Yes	No
27. I am aware that I can ask for custody of and/or visitation with my child/children.			
28. Abuse/violence is present in this family such as slapping, hitting, and/or verbal threats.			
29. I have been accused of violence in this case.			
30. I have accused the <i>other party</i> of violence in this case.			
31. I felt physically safe here today.			

### Section III. Background Information

32. How many children are affected by today's case? \_\_\_\_\_

33. If children are involved in today's case, please answer the following questions for each child.

Child	Age	Sex (M or F)	Custody in dispute?	Custody you have now? (check all that apply)	Visitation in dispute?	Visitation you have now?	Concerns about this child's safety having to do with this case?
#1			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> sole physical <input type="checkbox"/> sole legal <input type="checkbox"/> shared physical <input type="checkbox"/> shared legal <input type="checkbox"/> do not have custody	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> no visitation <input type="checkbox"/> supervised <input type="checkbox"/> unsupervised <input type="checkbox"/> not applicable	<input type="checkbox"/> Yes <input type="checkbox"/> No Reason: _____ _____
#2			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> sole physical <input type="checkbox"/> sole legal <input type="checkbox"/> shared physical <input type="checkbox"/> shared legal <input type="checkbox"/> do not have custody	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> no visitation <input type="checkbox"/> supervised <input type="checkbox"/> unsupervised <input type="checkbox"/> not applicable	<input type="checkbox"/> Yes <input type="checkbox"/> No Reason: _____ _____

Please complete chart on back for additional children

34. Please tell us your gender.

Male  Female

35. Did you move to the US?

Yes  No

36. Is English your second language?

Yes  No

37. What is your highest level of education? (check all that apply)

- |   |   |
|---|---|
| <input type="checkbox"/> Primary School                   | <input type="checkbox"/> Attended College     |
| <input type="checkbox"/> High School Graduate             | <input type="checkbox"/> Associate's Degree   |
| <input type="checkbox"/> G.E.D.                           | <input type="checkbox"/> Undergraduate Degree |
| <input type="checkbox"/> Technical/Vocational Certificate | <input type="checkbox"/> Graduate School      |
| <input type="checkbox"/> Attended Tech/Voc School         |   |

38. How do you identify yourself? (check all that apply)

- |   |  |
|---|--|
| <input type="checkbox"/> African American or Black        | <input type="checkbox"/> Mixed Race                                |
| <input type="checkbox"/> Alaska Native or American Indian | <input type="checkbox"/> Native Hawaiian or Other Pacific Islander |
| <input type="checkbox"/> Asian                            | <input type="checkbox"/> White                                     |
| <input type="checkbox"/> Hispanic or Latina/Latino        | <input type="checkbox"/> Other: _____                              |

## Family Court Snapshot Data Collection Project 2009 Probation Officer Survey

**NOTE: Please do not offer your name, the litigants' names, or any other identifying information. You are not required to answer every question. Please answer the questions truthfully. No answers will be shared. If you have questions about this survey, please call 1-866-203-1385.**

### Section I. Basic information about the sessions you held today

1. Please tell us the total number of sessions you held today. \_\_\_\_\_

2. Please tell us how many sessions involved the following subjects.

General Subject of the Session	Number	Comments/Description (optional)
Restraining order		
Divorce		
Paternity		
Visitation		
Custody		
Child support		
Other (please describe)		

3. Please tell us what types of hearings you handled today.

Type of Hearing	Number	Comments/Description (optional)
Pre-trial conference		
Trial		
Motion		
Contempt		
Other (please describe):		

4. How many sessions ended with an agreement between the parties? \_\_\_\_\_

5. How many litigants were not represented by an attorney? \_\_\_\_\_

6. How many sessions ended with the following types of agreements?

Type of Agreement	Number	Comments/Description (optional)
Temporary agreement on visitation		
Temporary agreement on custody		
Temporary agreement on child support		
Agreement on final order on visitation		
Agreement on final order on custody		
Agreement on final order on child support		
Agreement on final order on divorce action		
Agreement on final order in paternity action		
Other (please describe):		

7. In how many sessions did one or both of the parties...

- a) have children? \_\_\_\_\_
- b) have a physical disability? \_\_\_\_\_
- c) have a mental or cognitive disability? \_\_\_\_\_
- d) have a sensory disability? \_\_\_\_\_
- e) have a substance abuse problem? \_\_\_\_\_

### Section II. Case Characteristics, Access to Resources, and Session Dynamics:

For the sessions you conducted today, how much do you agree or disagree with these statements?

	Did Not Pertain to Today's Cases	76%-100% of the time	51% to 75% of the time	26% to 50% of the time	1% to 25% of the time
8. Professional interpreter services were provided when needed.					
9. When needed, the quality of professional interpretation was satisfactory.					
10. The parties had met with a PPO about this case before.					
11. I had the necessary information to help the litigants today.					
12. I had access to the resources necessary to assist the parties come to a resolution today.					

## Family Court Snapshot Data Collection Project 2009 Probation Officer Survey

**NOTE: Please do not offer your name, the litigants' names, or any other identifying information. You are not required to answer every question. Please answer the questions truthfully. No answers will be shared. If you have questions about this survey, please call 1-866-203-1385.**

### Section I. Basic information about the sessions you held today

1. Please tell us the total number of sessions you held today. \_\_\_\_\_

2. Please tell us how many sessions involved the following subjects.

General Subject of the Session	Number	Comments/Description (optional)
Restraining order		
Divorce		
Paternity		
Visitation		
Custody		
Child support		
Other (please describe)		

3. Please tell us what types of hearings you handled today.

Type of Hearing	Number	Comments/Description (optional)
Pre-trial conference		
Trial		
Motion		
Contempt		
Other (please describe):		

4. How many sessions ended with an agreement between the parties? \_\_\_\_\_

5. How many *litigants* were *not* represented by an attorney? \_\_\_\_\_

6. How many sessions ended with the following types of agreements?

Type of Agreement	Number	Comments/Description (optional)
Temporary agreement on visitation		
Temporary agreement on custody		
Temporary agreement on child support		
Agreement on final order on visitation		
Agreement on final order on custody		
Agreement on final order on child support		
Agreement on final order on divorce action		
Agreement on final order in paternity action		
Other (please describe):		

7. In how many sessions did one or both of the parties...

- a) have children? \_\_\_\_\_
- b) have a physical disability? \_\_\_\_\_
- c) have a mental or cognitive disability? \_\_\_\_\_
- d) have a sensory disability? \_\_\_\_\_
- e) have a substance abuse problem? \_\_\_\_\_

### Section II. Case Characteristics, Access to Resources, and Session Dynamics:

For the sessions you conducted today, how much do you agree or disagree with these statements?

	Did Not Pertain to Today's Cases	76%-100% of the time	51% to 75% of the time	26% to 50% of the time	1% to 25% of the time
8. Professional interpreter services were provided when needed.					
9. When needed, the quality of professional interpretation was satisfactory.					
10. The parties had met with a PPO about this case before.					
11. I had the necessary information to help the litigants today.					
12. I had access to the resources necessary to assist the parties come to a resolution today.					

- I ran a WMS check
  - The behavior of the litigants.
  - The statements of the litigants.
  - Information presented on the probation intake form or on the pleadings.
  - I used a standard questionnaire or assessment tool. Please describe.
- 
- 

- I used another method to make this determination. Please describe.
- 
- 

14. How many DI's involved *both* domestic abuse *and* mental health concerns? \_\_\_\_\_

15. How many DI's involved *both* domestic abuse *and* substance abuse concerns? \_\_\_\_\_

16. How many DI's involved all three concerns (domestic abuse, mental health, AND substance abuse)? \_\_\_\_\_



# **Appendix C**

## **Final Phase Surveys**

Family Court Snapshot  
Data Collection Project

Final Survey Instruments  
(2010)

**Wellesley Cts for Women, Wellesley College**  
**Family Court Snapshot Data Collection Project, Litigant Feedback Survey 2010**

We are gathering information from people with cases in family court. Taking part in this survey is **not required**. Please **do not offer your name** or any other identifying information. **No answers will be shared**. If you have questions about this survey, please call XXX-XXX-XXXX

**1. Why were you at court today?** [Check all that apply.]

\_\_\_\_\_ Restraining Order      \_\_\_\_\_ Custody      \_\_\_\_\_ Divorce  
 \_\_\_\_\_ Child Support      \_\_\_\_\_ Visitation  
 Other (Please describe): \_\_\_\_\_

**Please tell us about your experience in the courthouse TODAY.**

	n/a	Yes	No
2. Were you represented by an attorney?			
3. Did you bring a friend, family member, or anyone with you?			
4. Were you referred by court personnel to an advocate?			
5. Did you meet with that advocate?			
6. Did you need an interpreter?			
7. Did you get an interpreter?			
8. Did you know where to go in the courthouse?			
9. Did you feel safe in the courthouse?			

**Please tell us about your case.**

	Yes	No
10. Has the other person in your case ever made you feel unsafe?		
11. Has the other person ever made you feel your kids were unsafe?		
12. Are difficulties with substance abuse a concern in this case?		
13. Are difficulties with mental health a concern in this case?		

**Please tell us how much you agree or disagree with the statements below:**

	n/a	I Strongly Agree	I Agree	I Disagree	I Strongly Disagree
14. The court interpreter met my needs.					
15. The P.O. understood my needs. (P.O = Probation Officer)					
16. The P.O. understood my kid's needs.					
17. The P.O. explained the purpose of dispute intervention (DI).					
18. I understood the purpose of DI.					

Please tell us how much you agree or disagree with the statements below:	n/a	I Strongly Agree	I Agree	I Disagree	I Strongly Disagree
19. The P.O. explained his/her role in the family court process.					
20. I understood the P.O.'s role.					
21. I felt pressured by the P.O. to go along with things that I did not want.					
22. I understood the agreement I made today.					
23. The judge understood my story.					
24. The judge understood my financial concerns.					
25. The judge understood my relationship with my child.					
26. The judge clearly explained the court order made today.					

24. Please tell us your gender:

Male  Female

25. Did you move to the US?

Yes  No

26. Is English your second language?

Yes  No

27. What is your highest level of education? (Check all that apply)

Primary School

High School Graduate or equivalent

Tech/Vocational School

Undergraduate Degree

Graduate Degree

28. How do you identify yourself? (Check all that apply)

African American or Black

Alaska Native or American Indian

Asian

Mixed Race

Hispanic or Latina/Latino

Native Hawaiian/ Other Pacific Islander

White

Other(Please describe): \_\_\_\_\_

☺ THANK YOU FOR YOUR PARTICIPATION ☺  
PLEASE PLACE YOUR SURVEY IN THE COLLECTION BOX

## Family Court Snapshot Data Collection Project 2010 Probation Officer Survey

**NOTE:** Please do not offer your name, the litigants' names, or any other identifying information. You are not required to answer every question. Please answer the questions truthfully. If you have questions about this survey, please call 1-866-203-1385.

### Section I: Basic Information About the Dispute Interventions You Conducted Today.

1. Please tell us the total number of Dispute Interventions you held today. \_\_\_\_\_

2. Please tell us how many Dispute Interventions (DI's) involved the following subjects:

General Subject of the DI	No. of DI's for married couples	No. of DI's for NOT married couples	Comments/Description (optional)
2a. Restraining order			
2b. Division of assets			
2c. Visitation			
2d. Custody			
2e. Child support			
2f. Other (please describe)			

3. Please state the number of DI's where there were past and/or present restraining orders \_\_\_\_\_

4. For what types of court actions were the parties in court today?

Type of Action/Pleading	No. of DI's	Comments/Description (optional)
4a. Pre-trial conference		
4b. Trial		
4c. Motion		
4d. Contempt		
4e. Other (please describe):		

5. How many DI's ended with an agreement between the parties? \_\_\_\_\_

**6. Please tell us the number of DI's ...**

	No. of DI's
6a. That required an interpreter (for either or both parties).	
6b. That received an interpreter.	
6c. Where a party used a SAFEPLAN or other lay advocate.	
6d. Where the parties had met with a PO about this case before.	
6e. Where one party did <b>not</b> have an attorney.	
6f. Where <b>both</b> parties did not have an attorney.	
6g. That involved children.	

**7. Please tell us how much you agree or disagree with the statements below.**

	n/a	I Strongly Agree	I Agree	I Disagree	I Strongly Disagree
7a. When provided, the quality of professional interpretation was satisfactory.					
7b. All of the parties I assisted appeared to understand <b>the outcomes of their DI's</b> .					

**Section II. Dispute Intervention Observations**

**Instructions:** For questions 8 through 16, please tell us the number of DI's where a particular problem was a concern, either as determined by you, or as expressed by the litigants.

8. The number of DI's where the father's relationship/contact with his child(ren) was a concern. \_\_\_\_\_

9. The number of DI's where the mother's relationship/contact with her child(ren) was a concern. \_\_\_\_\_

10. The number of DI's where the emotional, physical, and/or sexual safety of the child(ren) was a concern. \_\_\_\_\_

11. The number of DI's where **domestic abuse** was a concern.  
(see definition on reverse) \_\_\_\_\_

11a. What information did you use to make this determination? (check all that apply)

- I ran a CARI check.
- I ran a WMS check.
- Existence of a past or present restraining order.
- The behavior of the litigants.
- The statements of the litigants.
- Information presented on the probation intake form or on the pleadings.
- I used a standard questionnaire or assessment tool. Please describe.

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I used another method to make this determination. Please describe.

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12. The number of DI's where a **mental health problem** was a concern.  
(for either or both parties) \_\_\_\_\_

12a. What information did you use to make this determination?

- I ran a CARI check.
- I ran a WMS check.
- The behavior of the litigants.
- The statements of the litigants.
- Information presented on the probation intake form or on the pleadings.
- I used a standard questionnaire or assessment tool. Please describe.

---

---

I used another method to make this determination. Please describe.

---

---

13. The number of DI's where a **substance abuse** problem (for either or both parties) was a concern. \_\_\_\_\_

13a. What information did you use to make this determination?

- I ran a CARI check.

- I ran a WMS check
  - The behavior of the litigants.
  - The statements of the litigants.
  - Information presented on the probation intake form or on the pleadings.
  - I used a standard questionnaire or assessment tool. Please describe.
- 
- 

- I used another method to make this determination. Please describe.
- 
- 

14. How many DI's involved *both* domestic abuse *and* mental health concerns? \_\_\_\_\_

15. How many DI's involved *both* domestic abuse *and* substance abuse concerns? \_\_\_\_\_

16. How many DI's involved all three concerns (domestic abuse, mental health, AND substance abuse)? \_\_\_\_\_

**Wellesley Centers for Women, Wellesley College  
Family Court Snapshot Data Collection Project 2010  
Judicial Officer Survey**

**NOTE: Please do not offer your name, the litigants' names, or any other identifying information. No answers will be shared. If you have questions about this survey, please call 1-866-203-2385.**

**Section I. Information About Meeting the Court's and Litigants' Needs**

	Did Not Pertain to Today's Cases	Always	Usually	About Half the Time	Seldom	Never
1. How often did a case involve children?						
2. How often were <b>both parties</b> represented by attorneys?						
3. How often was <b>only one party</b> represented by an attorney?						
4. How often was <b>neither party</b> represented by an attorney?						
5. How often were professional interpreter services provided when needed?						
6. How often was the quality of professional interpretation satisfactory?						
7. How often did a case involve a SAFEPLAN or other lay advocate?						
8. How often were you <b>unable</b> to assign a Probation Officer/GAL/other investigator to the case when needed?						
9. How often did the parties provide information about the existence of domestic abuse?						
10. How often was this information enough to understand whether domestic abuse is present in a case?						
11. How often did the parties provide information about the safety of children associated with a case?						
12. How often was this information enough to understand whether a child safety problem is present in a case?						

**Section II: Case Observations**

For the following questions, please tell us how often a particular problem was a concern, either as determined by you, or as expressed by the litigants.

	Did Not Pertain to Today's Cases	Always	Usually	About Half the Time	Seldom	Never
13. How often did a case involve concerns about the emotional, physical and/or sexual safety of a child?						
14. How often did a case involve a domestic abuse concern?						
15. How often did a case involve a substance abuse concern?						
16. How often did a case involve a mental health concern?						
17. How often did a case involve <i>both</i> substance abuse and domestic abuse concerns?						
18. How often did a case involve <i>both</i> mental health and domestic abuse concerns?						
19. How often did a case involve all 3 concerns (domestic abuse, substance abuse, mental health)?						

**Section II. Comments**

If you have additional comments and/or observations, please write them here.

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