Courts' and Communities'

Response to Domestic Abuse

A Report on the Implementation of the Iowa Supreme Court Task Force on Courts' and Communities' Response to Domestic Abuse.



December 1996

Courts' and Communities' Response to Domestic Abuse

A Report on the Implementation of the Iowa Supreme Court Task Force on Courts' and Communities' Response to Domestic Abuse

December 1996

This booklet was published by the State Court Administrator's Office, Des Moines, Iowa.

This report was developed under technical assistance grant #SJI-95-12L-A-035 from the State Justice Institute. The points of view expressed are those of the author and do not necessarily represent the official position or policies of the State Justice Institute.



Table of Contents

Introd	ductionduction	1
	Background	1
	Implementation Plan	2
Coord	dinationdination	4
	Background	4
	Roundtables	5
	Purpose	5
	Methods	
	Outcomes	
	Coalitions and Judicial Leaders	9
	Impact on Domestic Abuse	9
Recor	mmendations & Implementation	12
	Background	12
	Recommendations for Judicial Officers and Court Employees	. 12
	Leadership of Judicial Officers	12
	Leadership of Court Administration	14
	Pro Se Booklets	
	Complaint Mechanism	
	Protective Order Registry	
	Mediation	
	Training	
	Budget	
	Recommendations for Civil Cases	
	Recommendation for Criminal Cases	
	Recommendations for Police	
	Recommendations for County Attorneys	19
	Recommendations for Private Bar and Publicly-Funded Attorneys	
	Recommendation for Community and Court Related Agencies	
	Victim Advocates	
	Medical Professionals	
	Religious Communities	
	Business Leaders	
	Communities that Work with Children and Youth	
	Recommendations for the General Assembly	23
	Legislative Drafts	23
	Resulting Statutes	24

Table of Contents

Appendix A Interim and Final Independent Evaluation	27
Interim Evaluation	29
Final Evaluation	39
Appendix B Roundtable Materials	
Appendix C Judicial Leadership	
Appendix D Examples of Judicial Leadership	
1995 State of the Judiciary Address	
1996 State of the Judiciary Address	
The Iowa Lawyer Articles	
The Northwest Iowa Review Article	
Appendix E Clerk Protocol Table	105
Appendix F Implementation Overview Table	
Appendix G Legislation	
Senate File 367	
Senate File 150	
Senate File 2269	
Iowa Code Chapter 13	
Iowa Code Chapter 236	133
Iowa Code Chapter 598	
Iowa Code Chapter 708	
Laws of the 76th General Assembly, 1996 Session, Chapter 1131	



BACKGROUND

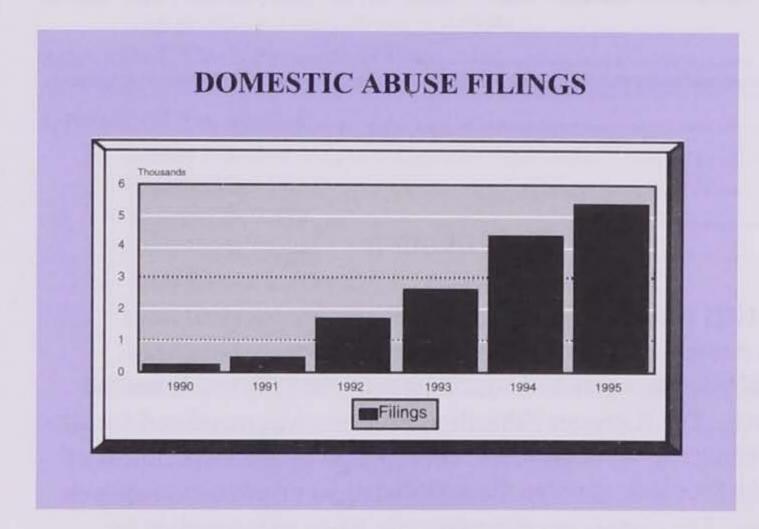
In 1991 the Iowa General Assembly enacted several laws relating to domestic abuse. Two provisions that passed required extraordinary organization and coordination to be fully implemented and effective. The Batterers Education Program was mandated for all convicted batterers. This program, coordinated by the Department of Correctional Services, entailed the establishment of education classes for batterers. The classes are effective only when accompanied by strict accountability of batterers from the courts, prosecutors and program providers. The second provision greatly expanded injunctive relief through the creation of a civil pro se process allowing victims to seek relief from the courts without an attorney. The unprecedented accessibility of the courts for relief from domestic abuse resulted in dramatic increases in domestic abuse civil filing rates.

Against the backdrop of these legislative changes that had greatly increased the role of the court in addressing domestic abuse, the Iowa Supreme Court ordered the formation of a task force to study domestic abuse case handling in Iowa. In August 1993, Chief Justice Arthur A. McGiverin charged the task force to report on the following issues.

Investigate how the Iowa court system is currently responding to increased numbers of domestic abuse cases.

The unprecedented accessibility of the courts for relief from domestic abuse resulted in dramatic increases in domestic abuse civil filing rates.

- Examine ways in which the Iowa courts can work in concert with other community resources to address the widespread problem of domestic violence.
- Make recommendations to the Iowa Supreme Court for improving judicial access and treatment of domestic abuse cases while efficiently and fairly administering increasing case loads.
- Propose possible legislative reform.
- Propose a statewide plan for implementation of the recommendations and findings.



The task force was composed of judges, lawyers, victim advocates, a court administrator and an administrator from the Department of Corrections. Each member of the task force contributed an area of expertise that was valuable to the overall project. The task force collected information through surveys, testimony, and research. In August of 1994, the task force submitted its final report to the Supreme Court.

IMPLEMENTATION PLAN

Upon receipt of the task force report, the Supreme Court began reviewing and acting on approved recommendations. The implementation plan proposed by the task force involved the establishment of a coordinator to oversee implementation. The Supreme Court approved the creation of a position in the State Court Administrator's Office and received funding from the State Justice Institute to hire a coordinator. A coordinator was hired in March 1995.

The task force also recommended the formation of an implementation council to monitor progress of task force recommendations and to address any new domestic violence issues that might arise. In January 1996, Lieutenant Governor Joy Corning formed a statewide group called the STOP-Violence Against Women Coordinating Council. The council was formed as a requirement of funding Iowa received through the federal Violence Against Women Act. The Supreme Court

requested that this council assume the role of the implementation council and oversee approved recommendations not directly related to the courts or the bar. The Supreme Court managed the implementation of recommendations involving the courts. All recommendations pertaining to the bar were communicated to the bar through letters from the Supreme Court.



...various Iowa communities had already begun building a community response.

BACKGROUND

Prior to the establishment of the task force, various Iowa communities had already begun building a community response. With the formation of the Batterers Education Program (BEP) in 1991, the Iowa General Assembly mandated the development of standards to govern BEP throughout the state. The standards were completed in 1992 and include a section on community coordination.

4.0 COMMUNITY RESPONSE MODEL

Each Judicial District Department of Correctional Services shall promote the development of and participation in a coalition of agencies for the purpose of coordinating a community response to domestic violence. The coalition should include, but not be limited to, law enforcement, prosecution, judiciary, defense bar, domestic violence project personnel, corrections, survivors and medical personnel and should provide racial and ethnic diversity in its composition. Institutions providing batterers education groups are encouraged to participate in local facilitator meetings, coalitions and the state steering committee. (Iowa Department of Corrections Standards for Batterers' Education Programs, revised 1/9/96, p. 3)

00

Before the standards were written, several communities already had some form of community response to domestic abuse. Many coalitions in existence prior to 1992 incorporated the BEP component into their existing framework. Some communities maintained their original coalition and formed another coalition dedicated to BEP and perpetrator accountability. The majority of coalitions in Iowa, however, were developed as a result of the formation of BEP.

When implementation of the task force report began in 1994, many state courts were forming local coordinating councils on the circuit or district level. Due to the sparse population of Iowa and the amount of effort put into BEP coalitions, the courts adopted the strategy of enhancing the current coalition structure rather than creating a new system of coalitions or councils.

The roundtables offered an opportunity to renew and expand the multidisciplinary interactions . . .

ROUNDTABLES

Purpose

To begin the implementation phase, members of the task force recommended a series of roundtable discussions. The roundtables offered an opportunity to renew and expand the multidisciplinary interactions via the coalitions established under the Standards for Batterers Education Program. Substantial time and resources had been dedicated to building community responses by the Department of Correctional Services and its contracted agencies. An informal review of coalitions indicated that most were struggling. After the successful implementation of the Batterers Education Program many coalitions had lost focus and were experiencing internal struggles or dwindling membership.

Prior to the roundtables, most coalitions did not have judicial participation; judges were understandably hesitant to become involved. By virtue of their impartiality, the role of judges in coalitions must be different from the role of other participants. Limitations imposed by judicial ethics are often misunderstood by the general public, complicating the involvement of judges in coalitions.

The concerns of participants in the legal system — such as increasing demands, dwindling resources, constant legislative changes and inefficient or contrary working relationships — could best be dealt with in unison. BEP coalitions, consisting of various members from

Collaboration has been defined as a mutually beneficial and well-defined relationship sustained by two or more organizations to achieve results they are more likely to achieve together than alone.

the legal system, provided a forum for interaction. The next challenge was to ensure that work within coalitions could be successful and productive.

Collaboration has been defined as a mutually beneficial and well-defined relationship sustained by two or more organizations to achieve results they are more likely to achieve together than alone. In their book Collaboration: What Makes It Work, Paul W. Mattessich and Barbara Monsey outline nineteen factors present in successful collaborations. Of the nineteen factors indicated by their research, the two most frequently cited factors present in successful collaboration pertain to membership characteristics: (1) an appropriate cross section of members, and (2) mutual respect, understanding and trust.

Roundtables provided an opportunity to promote an appropriate cross section of members and an opportunity to develop mutual respect, understanding and trust. The roundtable format encouraged more professionals from the legal system to become members of coalitions. Moreover, the roundtable format fostered the exchange of information among disciplines and enhanced mutual understanding. The key to fulfilling the purpose of enhanced mutual respect, understanding and trust was to provide an environment that encouraged open communication and discouraged disintegration into petty bickering.

Methods

Roundtables were coordinated by judicial district. The chief judge of each district determined the number and location of roundtables. With one exception, each chief judge agreed to send out invitations to roundtable participants. In the only district where that did not occur, a resident supreme court justice sent out the invitations. Invitations were sent to judges, magistrates, clerks of court, county attorneys, public defenders, county bar associations, legal services, legal aid societies, chiefs of police, sheriffs, Department of Corrections supervisors, victim advocates, and local coalitions. Participation was focused on those working in or beside the legal system.

The roundtable format evolved over time as a result of participant feedback via completed evaluation forms. The first two roundtables involved some trial and error which resulted in the final roundtable format. Roundtable duration was four hours. The final format (Appendix B) proceeded by encompassing the four major components of ground rules, trends and barriers, job responsibilities, and possibilities and limitations of a "seamless system."

To encourage only constructive dialogue, strict ground rules (Appendix B) were presented at the outset. The facilitators attempted to present the ground rules with humor while stressing the seriousness of adherence to the ground rules. Facilitators clearly stated that they maintained discretion to interpret actions and take necessary measures if any ground rules were violated.

Upon receiving instruction about the ground rules, participants were asked to form groups according to their disciplines. Groups were given thirty minutes to identify and record the trends and barriers they faced as a discipline with regard to domestic abuse. After creating their respective lists, each group presented their trends and barriers to all the roundtable participants. Participants were encouraged to ask clarifying questions about each group's list.

After completing the trends and barriers activity, the facilitators made a brief transition from assessment of the community/legal system to the importance of understanding and respecting each discipline's unique perspective. Participants were instructed to remain in single-discipline groups and to identify the three guiding principles for their jobs irrespective of domestic abuse casework. For example, judges' lists often resembled the following:

- 1. Be fair.
- 2. Be right.
- 3. Be quick.

Groups were given only five minutes to complete the task. Then all lists were posted simultaneously and participants were asked to make observations. A common observation was that the totality of lists contained very little redundancy but that they were harmonious. Several participants responded that they had never considered the "system" in its totality and they had a better appreciation for the role of individual players.

The final process was a multidisciplinary dialog about possibilities and limitations of a "seamless system." The concept of a "seamless system" was introduced before the ground rules. A "seamless system" was loosely defined by giving examples of some of the benefits that could be derived through collaboration among various groups of the legal system. Participants were divided into small multidisciplinary groups and given thirty minutes to discuss their ideas of a "seamless

... the facilitators made a brief transition from assessment of the community/legal system to the importance of understanding and respecting each discipline's unique perspective.

The discussion as a result of system assessment through trends and barriers was most often sited as the best aspect of the roundtables.

system." Each group's list of possibilities and limitations was briefly reported at the conclusion of the discussion.

Outcomes

The roundtables were well attended. In all 585 persons attended nineteen roundtables for an average of 31 persons per meeting. The roundtables were successful in attracting a broad cross section of participants not usually involved in multidisciplinary conversations about domestic abuse. Both victim advocates and BEP coordinators commented that they had unsuccessfully attempted to bring together similar groups and were pleased that the roundtables provided an initial step toward broadening coordination in communities.

The roundtable format was successful in eliciting a wide variety of opinions. Most participants acted respectfully. However, the level of discourse did resemble bickering at three of the nineteen roundtables. The assessment of system response through identification of trends and barriers identified idiosyncratic problems within communities. The only pervasive complaint was the "one size fits all" treatment approach of the Batterers Education Program.

The roundtable evaluation summary is included in Appendix B. Consistent themes among the evaluations included expressions of appreciation for the opportunity of other disciplines to hear comments from judges. At one roundtable in which judicial participation was minimal, several participants commented that they were disappointed that they were not able to hear from more judges. The discussion as a result of system assessment through trends and barriers was most often sited as the best aspect of the roundtables.

Two distinct actions ensued as a result of the roundtables: the addressing of individual community problems through local coalitions, and the evaluation of different approaches for convicted batterers. The coordinator consulted various members of the task force about how to proceed. Members of the task force agreed that local problems need local solutions. With the assistance of judges, local coalitions were better able to address idiosyncratic problems regarding the implementation of the law. Judges offer balance to the process of evaluating local problems and addressing them fairly. Alternatively, changing the approach of the Batterers Education Program required study of policy changes with statewide implications and, ultimately, possible legislative

reform. A group to investigate alternative sanctions for batterers was convened in January 1996, as a subcommittee of the STOP-Violence Against Women Coordinating Council.

COALITIONS AND JUDICIAL LEADERS

In June 1995, the Supreme Court affirmed the appropriateness of judges' involvement in domestic violence coalitions. During the same month, the chief judges began a selection process to identify judges in each district to take leadership roles in 26 of Iowa's domestic violence coalitions. Twenty-seven judges were appointed to 26 coalitions. A training session (Appendix C) for the judges was conducted November 9 to provide information on coalition structure, the judge's role, and to set expectations for judicial involvement. The judges set an agenda for coalition activities: (1) to increase pro bono representation for plaintiffs at the contempt stage of the civil protective order process; and (2) to enhance the functioning of the criminal law by ensuring that law enforcement investigates domestic abuse cases as if the victim will not testify, and to ensure that prosecution goes forward without victim cooperation if necessary.

To respond to concerns about judges maintaining impartiality while becoming leaders in local coalitions, the Supreme Court developed and distributed a document entitled "Special Concerns Involving Judicial Participation in Domestic Violence Coalitions" (Appendix C). The document was distributed to all coalitions in the state in preparation for judges taking an active role.

IMPACT ON DOMESTIC ABUSE

The roundtables and involvement of judges through the judicial leadership project energized local coalitions. Judges have made positive contributions by networking with other agencies. Many judges have been able to establish better communication patterns between the court and court-related agencies. Coalitions report that with judges, they became better able to address issues of victim safety and perpetrator accountability. Moreover, judicial leaders have made an impact by addressing the need for representation of pro se litigants at contempt hearings.

The judges set an agenda for coalition activities: (1) to increase pro bono representation for plaintiffs at the contempt stage of the civil protective order process; and (2) to enhance the functioning of the criminal law by ensuring that law enforcement investigates domestic abuse cases as if the victim will not testify, and to ensure that prosecution goes forward without victim cooperation if necessary.

Coalitions could be improved by concerted efforts to train more local leaders about how to guide and promote the continued development of a community response.

A current weakness of many coalitions is the need for clearer definition and direction, perhaps through a statement of purpose (see interim evaluation in Appendix A). The Santa Clara County Domestic Violence Council, nationally recognized as a model collaboration, has developed a comprehensive mission statement:

The goal of the Domestic Violence Council is to end domestic violence in Santa Clara County. The general purpose of the council shall be to assure (1) safety and restoration for victims of domestic violence, (2) cessation of the violence, and (3) accountability for batterers. In order to accomplish these purposes, the council shall:

- (a) Improve coordination among agencies, departments, the courts, and members of the community in matters of family violence and abuse.
- (b) Promote effective prevention intervention and treatment techniques which will be developed based upon research and data collection.
- (c) Improve the response to domestic violence so as to reduce incidents thereof.
- (d) Educate the public about the need to end domestic violence.

The state steering committee for the Batterers Education Program could refine the purpose of the BEP coalitions to provide direction to local coalitions.

Coalitions could be improved by concerted efforts to train more local leaders about how to guide and promote the continued development of a community response. While judicial leadership has improved the state of most coalitions, research on collaboration suggests the necessity of having multiple leaders in any collaborative effort. Many judges are limited in the amount of time that can be dedicated to coalition activities. While it is important that judicial leadership continue, local efforts will only be strengthened by increasing leadership potential from multiple agencies and people.



The court has initiated change within the Judicial Branch and continues to reach out to communities for assistance in addressing domestic abuse.

BACKGROUND

The Supreme Court began implementing the task force report in the fall of 1994 by reviewing and approving recommendations involving legislation. The legislative recommendations were forwarded to the General Assembly and the Executive Branch as part of the 1995 State of the Judiciary address (Appendix D). Legislative recommendations were included as part of the court's legislative agenda in 1995 and 1996. The court then reviewed all recommendations involving judicial officers and court employees. Implementation of recommendations for Iowa courts began in the fall of 1994 and is ongoing. Recommendations that involve lawyers and other agencies were reviewed separately. Approved recommendations involving lawyers were communicated directly to the Iowa State Bar Association, Legal Services Corporation of Iowa, and the Iowa County Attorneys Association. Approved recommendations for other court-related agencies and community groups were forwarded to the STOP-Violence Against Women Coordinating Council. A table of the actions as a result of the original task force recommendations is included in Appendix F.

RECOMMENDATIONS FOR JUDICIAL OFFICERS AND COURT EMPLOYEES

Leadership of Judicial Officers

The Iowa Supreme Court has maintained active leadership on the issue of domestic abuse through the implementation of the task force report. The court has initiated change within the Judicial Branch and continues to reach out to communities for assistance in addressing domestic abuse.

In his 1995 State of the Judiciary address (Appendix D), Chief Justice Arthur A. McGiverin affirmed the importance of the court setting an example for the rest of the community by recognizing the importance of stopping domestic violence. He issued a challenge to others to join the courts in the task of ending domestic abuse.

The judiciary continued to provide leadership by sponsoring a series of roundtable discussions on domestic abuse and community coordination from July through October 1995. Iowa's chief judges played a crucial role in the success of the roundtables. Chief judges participated in the planning of roundtables and the dissemination of invitations. Chief judges encouraged participation of judges and magistrates in the roundtables. Members of the Iowa Supreme Court also demonstrated support and leadership by attending various roundtable discussions throughout the state.

With the establishment of the judicial leadership project in November 1995, judicial officers on every level of Iowa's court system have demonstrated leadership. The Chief Justice reiterated the courts' commitment to provide leadership in his 1996 State of the Judiciary address (Appendix D). The Supreme Court helped to answer questions and concerns about the ethics of judicial involvement in coalitions through the production and distribution of "Special Concerns Involving Judicial Participation in Domestic Violence Coalitions" (Appendix C). An appellate judge now serves on the STOP-Violence Against Women Coordinating Council. Chief judges identified judges in their districts to become leaders in coalitions. Judicial leaders represent district court judges, district associate judges, juvenile court judges and magistrates.

Through their involvement in the various coalitions and councils, Iowa judges have set an example for the community. Judges participate in educational forums about domestic abuse and speak out about the need to create public partnerships (Appendix D). Judicial leaders have organized forums for coalitions to speak with judges about the role of the judiciary in domestic abuse cases and have encouraged others to join the coalition. Judges have been working with the Iowa Bar Association's Volunteer Lawyers Project, Legal Services Corporation of Iowa, and Drake Law School to address the issue of increasing representation for plaintiffs.

With the establishment of the judicial leadership project in November 1995, judicial officers on every level of Iowa's court system have demonstrated leadership.

Through the establishment of the position of Domestic Abuse Intervention Coordinator, the Supreme Court and state court administrators have demonstrated a positive and proactive approach toward dealing with domestic abuse.

Leadership of Court Administration

Through the establishment of the position of Domestic Abuse Intervention Coordinator, the Supreme Court and state court administrators have demonstrated a positive and proactive approach toward dealing with domestic abuse (Appendix A, Interim and Final Evaluation). Court administrators have actively participated in the implementation of several projects related to the implementation of the task force report. Managers within the Judicial Branch are sensitized as to how domestic abuse affects employees. When necessary, these managers work closely with the Director of Human Resources to handle performance issues resulting from victimization. Currently, a brief statement on domestic violence is being drafted for inclusion in Judicial Branch personnel policies.

Employees of the Iowa Court Information System (ICIS), a division of the State Court Administrator's office, have been very active in the implementation of task force recommendations. The ICIS staff has been integral in the development and implementation of the computerized registry for domestic abuse protective orders. ICIS employees have developed a plan to collect both civil and criminal domestic abuse statistics. ICIS staff has also provided guidance in the development of an Internet homepage on domestic abuse and Iowa courts.

Pro Se Booklets

As a result of the task force report, the booklet *How to Protect Yourself from Domestic Abuse Without a Lawyer* was updated and printed. Since October of 1995, the State Court Administrator's office distributed 18,500 copies to clerks of court and domestic violence projects throughout the state. The Spanish translation has been updated and is in the process of being reprinted. The booklet was recently translated into Vietnamese and is being printed for distribution. The English, Spanish and Vietnamese versions will be available through the Internet homepage.

Complaint Mechanism

The Supreme Court affirmed the need to develop an informal mechanism to receive and address complaints by court users. A similar recommendation was made by another Supreme Court task force that considered equality in the courts. The State Court Administrator's Office is investigating methods to accomplish more accessible accountability of judicial officers and court personnel.

Protective Order Registry

The State Court Administrator's Office agreed to work with the Department of Public Safety (DPS) to create a statewide protective order registry without legislation. Both agencies have secured funding to complete the project. The registry will link the computerized information systems housed within DPS and the Judicial Branch in order to efficiently and effectively convey information about domestic abuse protective orders. Law enforcement agencies will be able to access information about protective orders issued in any Iowa county as well as orders from other states that have been validated in Iowa. Judges will be able to determine the status of an order and the number of orders entered against an individual. The enhanced communication between law enforcement and the courts will facilitate the enforcement of protective orders.

The Supreme Court has supported the development of uniform protective order in both civil and criminal cases. Uniform orders are also being considered for use in certain juvenile court matters involving domestic abuse. The form orders will contain consistent and reliable information for peace officers independent of the county of origin or judicial district. The form orders will enhance the ability of law enforcement agencies and clerks of court to gather the information necessary for the registry.

Mediation

The factors for mediation will be the subject of a supervisory order. Standards for training mediators should be included in the court rules on standards of practice for mediators.

Training

A comprehensive educational program was delivered to Iowa judges in 1993 as a result of a recommendation from the Equality in the Courts report. Since then, judges have received annual training on domestic violence issues. The Supreme Court affirmed that annual training should continue for judges and judicial employees. This training should include information regarding

- mediation in dissolution when there is domestic abuse, and
- the relationship between mother abuse and custody when considering the best interests of the child.

Victim advocates should assist in the development of training materials and should be included as presenters in educational sessions for judges and clerks of court.

The State Court
Administrator's
Office is investigating methods to
accomplish more
accessible accountability of judicial
officers and court
personnel.

15

Clerks of court have received training on the dynamics of domestic abuse and their role in processing pro se petitions. In an annual training session in October 1995, clerks received information about the most difficult types of pro se petitioners and how to deal with them effectively. Clerks were also encouraged to join judges and actively participate in their local domestic violence coalition. Clerks were informed of a video that could be used to train personnel in their offices. Domestic abuse training is being planned for staff in clerks offices and for court attendants.

Budget

The Supreme Court continues to track the costs of increasing civil and criminal caseloads for both clerks of court and judicial officers. Budget requests to the legislature are commensurate with the need of the courts to continue to efficiently and effectively handle domestic abuse cases. In 1996 more judges were added to hear cases. The focus for 1997 will be to increase the staff and resources needed in clerk of court offices as the result of increasing duties relating to the processing of pro se petitions and the implementation of the domestic abuse protective order registry. The Supreme Court recognizes the importance of fully funding the allied agencies that respond to domestic abuse. A statement to this effect was included for the legislature and executive branch in Chief Justice McGiverin's 1995 State of the Judiciary address (Appendix D).

the legislature are commensurate with the need of the courts to continue to efficiently and effectively handle domestic abuse cases.

Budget requests to

Recommendations for Civil Cases

Each Clerk of Court office developed a protocol for processing pro se domestic abuse cases. A table of protocol elements by county is included in Appendix E. Clerks' offices referred to Chapter 12, Appendix A of the Manual for District Court Clerks and the model protocol, pp. 53-57, of the Final Report of the Supreme Court Task Force on Courts' and Communities' Response to Domestic Abuse.

Readable signs should be placed in and around courthouses to direct pro se litigants to the entry point for filing a petition for relief from domestic abuse. Several Clerks of Court have accomplished this by using simple signs created on a word processor. Signs developed by the Allamakee County Clerk of Court office state the following:

DOMESTIC ABUSE CASE PROCESSING

AVAILABLE ON SECOND FLOOR
CLERK OF COURT OFFICE.
IF OFFICE IS CLOSED, CALL
586-4521
OR DOMESTIC ABUSE HOTLINE
1-800-942-0333
AND TELL THEM YOU NEED
INFORMATION ABOUT A PROTECTION
ORDER.

DOMESTIC ABUSE CASE PROCESSING HERE.

(IF CLERK OF COURT OFFICE IS CLOSED, CALL THE SHERIFF AT 586-4521 AND TELL THE STAFF MEMBER YOU NEED A PROTECTION ORDER)

Clerks of Court with the assistance of the Chief Judge and the Judicial Council's Courthouse Security Committee should solicit the support of their county board of supervisors to examine ways in which they can assure the safety and security of all court personnel and litigants in the pro se process. Additionally, early in the filing process, personnel from the Clerk of Court office should inquire about any immediate safety concerns of the petitioner and take appropriate precautions. The Clerk of Court should identify some space out of the main traffic area to allow the petitioner to complete the necessary paperwork.

Resource materials for petitioners at clerk of court offices include the booklet *How to Protect Yourself from Domestic Abuse* without a Lawyer and a video tape entitled *Getting a Domestic Abuse* Protective Order without a Lawyer. The video was produced and

Readable signs should be placed in and around courthouses to direct pro se litigants to the entry point for filing a petition for relief from domestic abuse.

Judges are encouraged to have face-to-face contact with plaintiffs seeking a temporary protection order, but this priority shall give way to the goal of processing petitions for relief from domestic abuse within four hours of presentation.

distributed by the Young Lawyers Division of the Iowa State Bar Association. Many clerks of court show the video to all petitioners seeking a protective order.

Judges are encouraged to have face-to-face contact with plaintiffs seeking a temporary protection order, but this priority shall give way to the goal of processing petitions for relief from domestic abuse within four hours of presentation. The Judicial Branch purchased fax machines for each clerk of court office in the state. Fax machines have been a tremendous aid for the processing of pro se petitions in rural areas that do not have consistent access to district court judges. Every clerk of court office has developed a procedure for use of fax machines in domestic abuse cases. The use of fax machines allows all petitioners to have prompt service from the court independent of whether or not there is a presiding judge in the county.

Finally, Clerk of Court offices with sufficient numbers of staff should consider designating one or more individuals to specialize in facilitating the pro se domestic abuse filings under Chapter 236. Advantages of staff specialization include the ability to deliver consistently prompt and courteous service. Such staff can receive specialized training and can access resources to mitigate the stress of dealing with these types of cases. Finally, if possible, specialized staff can rotate through the role of domestic abuse specialist to avoid undue stress.

Recommendation for Criminal Cases

Judges should impose the Batterers Education Program approved by the Department of Correctional Services at the sentencing of defendants convicted of, or receiving a deferred judgement for domestic abuse assault. In *State v. Tenney*, 493 N.W. 2d 824 (1992) the Supreme Court affirmed the requirement of the sentencing court in domestic abuse assault cases to order all defendants to participate in a batterers education program.

RECOMMENDATIONS FOR POLICE

If they have not done so, law enforcement agencies should develop a working relationship with the domestic abuse service program which serves the area. Included in this relationship should be an early intervention program with victim advocates as part of the first law enforcement/victim contact. Successful early intervention programs

RE

have been instituted in both urban and rural communities. Victim advocates can be useful in educating officers about domestic violence and successful interventions. Law enforcement agencies should utilize the expertise of victim advocates in developing training materials for their personnel.

Law enforcement agencies should become leaders and participate in community coalitions or task forces which are designed to improve the justice system and the community-wide response to domestic abuse. Each law enforcement agency in the state should implement a written protocol for responding to domestic abuse cases which should be shared with coalition members.

RECOMMENDATIONS FOR COUNTY ATTORNEYS

County attorneys should use their official position in the community to provide leadership in developing a community-wide response to domestic violence. County attorneys should actively participate in community coordinating councils/coalitions in order to maintain an effective and accountable justice system response to domestic violence, and to encourage community-wide efforts to end the problem. If they have not done so, county attorneys should establish formal working relationships with domestic violence victim advocates.

The Supreme Court urges that prosecutors attend specialized domestic violence continuing education programs every two years. When developing program content, prosecutors and the Prosecuting Attorneys Training Council should utilize the expertise of victim advocates.

Domestic abuse is a complex issue requiring some expertise. County attorneys should put experienced prosecutors on these cases. When resources permit, county attorney offices should create specialized units — including prosecutors, investigators, and victim advocates — for prosecution of domestic violence cases; alternatively, individual prosecutors can be identified and trained to handle this specialized case load.

County attorneys should work with law enforcement to develop ways in which cases supported by probable cause can be prosecuted, whether or not the victim is available to testify. Prosecutors

If they have not done so, law enforcement agencies should develop a working relationship with the domestic abuse service program which serves the area.

County attorneys should use their official position in the community to provide leadership in developing a community-wide response to domestic violence.

County attorneys should work with law enforcement to develop ways in which cases supported by probable cause can be prosecuted, whether or not the victim is available to testify.

should review charges of domestic abuse assault filed by law enforcement as early as possible following an arrest, for example, at initial appearances. County attorneys should actively pursue revocations so that batterers face swift consequences for failure to comply with the initial court order or program requirements.

RECOMMENDATIONS FOR PRIVATE BAR AND PUBLICLY-FUNDED ATTORNEYS

The Supreme Court encourages the Iowa State Bar Association and Legal Services Corporation of Iowa to continue providing continuing legal education programs on domestic violence. Members of the Bar should be encouraged to join a volunteer lawyers project and to accept domestic abuse cases.

RECOMMENDATION FOR COMMUNITY AND COURT RELATED AGENCIES

Victim Advocates

Victim advocates should participate in the implementation of the task force report through the STOP-Violence Against Women Coordinating Council.

The Iowa Coalition Against Domestic Violence should continue its efforts to better address the connections between child abuse and domestic abuse with Child Protective Services and the Department of Human Services.

Medical Professionals

The medical community should continue to increase participation in statewide and local community efforts to respond to domestic violence.

Medical providers and public officials who consider mandatory reporting of domestic abuse and similar public policy initiative should consult with domestic violence advocates and similar national victim networks to enable them to become better informed before making policy decisions.

65

Members of the Bar should be encouraged to join a volunteer lawyers project and to accept domestic abuse cases.

Religious Communities

The STOP-Violence Against Women Coordinating Council should consider establishing a subcommittee consisting of victim advocates, clergy and lay religious leaders to:

- Collect data on how religious groups are currently addressing domestic violence.
- Identify those churches, synagogues and mosques that can act as role models for others across Iowa.
- Develop a curriculum for training religious leaders how to work with victims and abuser and to make appropriate referrals.
- Identify religious leaders who would be available to speak on this issue at conferences and forums.

Religious leaders should be encouraged to join local coalitions against domestic violence. Religious leaders should lead by example by addressing domestic violence in sermons and youth classes, and by including shelters in the benevolent concerns of the church, synagogue or mosque. Religious leaders should recognize premarital counseling as a unique and crucial opportunity to discuss the issue of violence between spouses and set a standard that such abuse is not acceptable.

Business Leaders

The STOP-Violence Against Women Coordinating Council should consider establishing a subcommittee of business leaders to:

- Collect data on how businesses are currently addressing domestic violence.
- Identify those businesses that can act as role models for others across Iowa.
- Develop a packet for personnel directors on how to deal with the spillover of domestic violence into the workplace, and specifically how to keep the workplace safe for their employees.
- Launch a fund-raising campaign which explains to businesses why domestic violence projects need their financial help and how they can contribute.

Religious leaders should recognize premarital counseling as a unique and crucial opportunity to discuss the issue of violence between spouses and set a standard that such abuse is not acceptable.

Identify ways in which the business community
can assist the court process in handling domestic
abuse cases, e.g., encouraging corporate counsel
to donate time to handle cases under Chapter
236.

Business leaders should be encouraged to join local coalitions against domestic violence. Business leaders should lead by example and express a zero tolerance for domestic violence in both public and private dealings.

Communities that Work with Children and Youth

The STOP-Violence Against Women Coordinating Council should consider establishing a subcommittee of educators and youth group leaders to:

- Collect data on how schools and youth groups are currently addressing domestic violence.
- Identify those groups that can act as role models for others across Iowa.
- Develop a packet for educators and youth group leaders on how to deal with young people who may be dealing with domestic violence in their home or dating relationships.
- Identify how youth groups may be able to help the court system better handle domestic abuse cases.

Educators and youth group leaders should be encouraged to join local coalitions against domestic violence. Iowa school boards should expand instruction under Iowa Code section 279.50 to place a greater emphasis on domestic abuse and dating violence. Schools and youth groups should help raise community awareness of the problem of domestic violence, find out how they can help their local shelters and domestic abuse projects, and help establish the societal and generational expectation of nonviolence.

Schools and youth groups should help raise community awareness of the problem of domestic violence, find out how they can help their local shelters and domestic abuse projects, and help establish the societal and generational expectation of nonviolence.

RECOMMENDATIONS FOR THE GENERAL ASSEMBLY

Legislative Drafts

The Supreme Court forwarded legislative recommendations from the task force report directly to the legislature. The 1995 State of the Judiciary address (Appendix D) outlines all of the legislative recommendation forwarded to the General Assembly. Legislative activity on task force recommendations spans both the 1995 and 1996 sessions.

The primary piece of domestic abuse legislation introduced in 1995 was SF 367 (Appendix G). This bill contained a variety of measures as a result of the task force report. SF 367 required that

- the number of hours for domestic abuse training at the Iowa Law Enforcement Academy increase to twelve hours for new recruits, and four hours for in-service training;
- peace officers seize weapons when making a mandatory arrest;
- the Department of Public Safety establish a domestic abuse protective order registry;
- BEP facilitators receive domestic abuse police reports;
- protective orders issued in other states and registered are enforced like Iowa orders;
- the Attorney General's office develop domestic abuse prosecution policies for county attorneys;
- county attorneys prosecute domestic abuse misdemeanors;
- violations of domestic abuse protective orders are charged as either a simple misdemeanor or a contempt of court;
- a successful plaintiff upon the violation of a civil protective order be allowed to receive attorneys fees and court costs from the defendant;
- the marriage license fee increase by ten dollars to be distributed to defray the costs of county attorneys providing legal assistance to pro se domestic abuse plaintiffs;

Legislative activity on task force recommendations spans both the 1995 and 1996 sessions.

- a domestic abuse case is sealed only upon application of the petitioner;
- district associate judges and magistrates have authority to enter temporary or emergency protective orders;
- courts cannot enter mutual protective orders;
- the relationship definition for domestic abuse include juveniles; and
- a juvenile victim can have a guardian file for protection on the victim's behalf in district court.

The other piece of legislation introduced in the 1995 session was SF 150 (Appendix G) which established a rebuttable presumption against joint custody when the court finds a history of domestic abuse.

Some of the task force recommendations that failed in 1995 were introduced again during the 1996 legislative session. SF 2269 (Appendix G) required that county attorneys prosecute domestic abuse misdemeanors and that district associate judges have the authority to enter temporary and emergency protective orders.

Resulting Statutes

The General Assembly enacted many of the provisions from the task force report. All resulting statutes can be found in Appendix G.

Prosecution Policies (1995)

Iowa Code section 13.2 (13) requires the Attorney General to develop written policies and procedures to be used by county attorneys in domestic abuse cases.

Juveniles Included in Relationship Definition (1995)

The definition for relationship of persons eligible to receive protection under Chapter 236 was expanded. Section 236.2 now includes juveniles who fit the other relationship definitions of being married, having a child in common, cohabiting, etc. The relationship does not cover the minor children of parents who are themselves in a battering relationship. Rather the language is to cover adolescents who are being battered by husbands or boyfriends. Parents and guardians of juveniles seeking relief from domestic abuse are allowed to file on behalf of the juvenile. Section 236.3 includes a provision for

The General
Assembly enacted
many of the
provisions from
the task force
report.

guardians filing on behalf of minors and also directs district court to waive jurisdiction to juvenile court when the defendant is seventeen years old or younger.

Plaintiff Attorneys Fees (1995)

Under Iowa Code section 236.5 (3) the judge can order the defendant to pay the plaintiff's attorneys fees and court costs.

Expanded Enforcement Options for Protective Orders (1995)

Violations of domestic abuse protective orders entered under Chapter 236, Chapter 598 and criminal no contact orders can be filed as either a contempt of court or a simple misdemeanor. While this provision in section 236.8 can be confusing at the local level, it was intended to provide more flexibility for communities to use when enforcing protective order violations.

Foreign Protective Orders (1995)

Section 236.19 provides that protective orders from other states will be enforced like Iowa orders. The foreign orders must be equivalent to Iowa orders issued from Chapter 236, Chapter 598, or criminal no contact orders.

Prohibition of Mutual Protective Orders (1995)

Judges are prohibited from issuing mutual protective orders as the result of a petition for relief from domestic abuse. Iowa Code section 236.20 allows mutual protective orders only in the event that both parties filed petitions that were judged separately. When issuing a single protective order, the parties should be clearly warned that, although only one party is enjoined, the nonenjoined party may be subject to criminal prosecution for aiding and abetting in the event he or she initiates contact with the enjoined party. The protective order should also inform the parties that it may be withdrawn only by the court upon proper application.

Prosecution of Domestic Abuse Misdemeanors (1996)

Prosecutorial discretion regarding misdemeanors under section 331.756 (4) was amended to require county attorneys to prosecute domestic abuse misdemeanors. In all other misdemeanors, prosecutors have the responsibility to prosecute when they are not otherwise engaged in official duties.

Judges are prohibited from issuing mutual protective orders as the result of a petition for relief from domestic abuse.

When there is a history of domestic abuse, the court cannot consider the absence of the victim from the home due to fear as evidence against the victimized parent when awarding custody or visitation. Further, the court can consider a history of domestic abuse as a just cause for the victimized parent to deny maximal continuing contact with the other parent.

Presumption Concerning Custody (1995)

Section 598.41 was amended to include a rebuttable presumption that it is detrimental to a child and not in the child's best interest to be placed in the sole custody, joint legal or physical custody with a perpetrator of domestic abuse. The court can determine a history of domestic abuse through commencement of an action to get a protective order under Chapter 236, the issuance of a Chapter 236 court order or consent agreement, contempt of court actions resulting from violations of Chapter 236 orders, or a conviction for domestic abuse assault under section 708.2A. When there is a history of domestic abuse, the court cannot consider the absence of the victim from the home due to fear as evidence against the victimized parent when awarding custody or visitation. Further, the court can consider a history of domestic abuse as a just cause for the victimized parent to deny maximal continuing contact with the other parent.

Expanded Jurisdiction for District Associate Judges (1996)

Iowa Code section 602.6303 (2) allows district associate judges to enter temporary or emergency orders of protection under Chapter 236.

Police Reports for BEP Facilitators (1995)

Section 708.2B allows District Department of Correctional Services or their contract service providers to receive police reports regarding persons participating in the Batterers Education Program.

Appendix A

Interim and Final Independent Evaluations

Interim Evaluation:

Iowa Domestic Abuse Intervention Coordinator Program

Iowa State Court Administrator

March 1996

Mark A. Grey, Ph.D. Robert J. Hunter, Ph.D.

Department of Sociology and Anthropology University of Northern Iowa Cedar Falls, Iowa 50614

UNI Community Service Contract 96-044

The <u>Final Report</u> of the Iowa Domestic Violence Task Force recommended the creation of a State Domestic Abuse Intervention Coordinator program to foster collaboration among agencies that confront domestic violence. These agencies include law enforcement, trial attorneys, prosecutors, victims advocates and shelters.

Funding for this program was obtained from the State Justice Institute with matching state funds for the fiscal years 1994-95 and 1995-96. The majority of funds were designated for the salary and benefits of the Domestic Abuse Intervention Coordinator. Ms. Jennifer Juhler was hired for this position.

Funds were also earmarked for travel, postage, telephone and other expenses. The external funder also required an independent evaluation of the program. Drs. Mark Grey and Robert Hunter of the University of Northern Iowa were contract to perform the evaluation.

This report constitutes the results of the interim program evaluation. The first evaluation plan addressed the original activities of the coordinator, namely a series of "roundtables" across the state with local law enforcement, court and other agencies to support domestic violence coalitions and encourage collaboration and shared protocols. However, the evaluation plan was restructured. In an October 13, 1995 addendum to the contract, the focus of the evaluation shifted from the roundtable participants to judges who participate in the state's 25 domestic violence coalitions. This change in the evaluation plan reflected a shift in the focus and goals of the program. Emphasizing collaboration among agencies was particularly difficult in areas without strong domestic violence coalitions. In some cases, agency representatives did not share the belief that domestic abuse was an important issue, much less that agencies should share protocols for dealing with it. Redirecting the program's energies towards judges was a prudent measure. It clearly indicated that Ms. Juhler understood that the key personnel in addressing domestic abuse were judges.

Initial training of these judges was conducted by Ms. Juhler in November 1995. Since that time, Ms. Juhler has worked with individual judges and coalitions to strive toward these specific goals:

- 1. Increase judicial involvement in coalitions. (In those cases where coalitions were currently inactive, judges were encouraged to regenerate them.
- 2. Provide leadership training for judges with a particular emphasis on coalition building.

25

- 3. Encourage judges to set an agenda for coalitions to increase representation for domestic abuse victims including securing <u>pro bono</u> representation for women when batterers violate civil restraining orders.
- 4. Encourage coalitions to monitor progress towards increased representation by maintaining thorough records.
- 5. Encourage courts to emphasize criminal "no contact" provisions over civil orders, deemphasizing pro se.

The interim evaluation involved the distribution of a questionnaire to all participating judges. This questionnaire included quantitative questions about the current state of domestic violence procedures in their districts and the efforts of the domestic violence coordinator (see Appendix A). Five "open-ended" questions were also included. Only twelve completed questionnaires were returned. However, questionnaires were sent to some judges who had not yet taken an active role in the local coalition or extensive contact with Ms. Juhler. Two judges responded with letters. One stated that he did "not feel...knowledgeable to answer the questionnaire at this time." The other provided some general remarks about Ms. Juhler and these will be provided below.

Methodology

In order to evaluate the impact of the efforts and effectiveness of the Domestic Violence Coalitions and the Domestic Abuse Coordinator, a Likert Scale survey instrument was mailed to all judges. This survey was composed of twenty questions, ten of which were directed toward the Domestic Violence Program in general with the remaining 10 questions directly evaluating the efforts of Ms. Juhler.

Respondents were asked to: "Please answer these questions based on a scale of 1 to 6 The <u>higher</u> the number the <u>more</u> you agree with the statement." Answers to the survey questions utilized the following Likert format:

Likert Scale

- 1 Strongly Disagree
- 2 Moderately Disagree
- 3 Somewhat Disagree
- 4 Somewhat Agree
- 5 Moderately Agree
- 6 Strongly Agree

Analysis: N = 12

Due to the limited number of respondents, the primary statistic of analysis was the <u>mode</u> -- the response recorded the most often for each question.

1. Over the last 6 months, pro bono representation at contempt hearings has increased.

Mode = 3 (Somewhat Disagree)

2. Prosecution of violations of the Domestic Violence statutes (even if the victim refuses to testify) has increased in my district.

Mode = 4 (Somewhat Agree)

3. Interaction with the Domestic Violence Coalitions has raised my level of awareness on the subject of domestic abuse.

Mode = 4 (Somewhat Agree)

4. I feel that the objectives of the Domestic Violence Coalitions have been clearly articulated.

Mode = 4 (Somewhat Agree)

5. My interaction with the Domestic Abuse Coalition has been a positive.

Mode = 5 (Moderately Agree)

6. I feel that the Domestic Abuse Coalition has contributed to positive developments in the judicial process of domestic violence.

Mode = 4 (Somewhat Agree)

7. Overall, discussions held by the Domestic Abuse Coalitions have been effective.

Mode = 4 (Somewhat Agree)

8. The leadership training provided through the meetings with the Domestic Abuse Coalitions has been helpful.

Mode = 4 (Somewhat Agree)

9. The agenda of the Domestic Abuse Coalition has been clearly defined.

Mode = 4 (Somewhat Agree)

10. The expectations for the role of judges by the Domestic Abuse Coalition are reasonable.

Mode = 3 (Somewhat Disagree)

The following questions were asked to specifically assess the effectiveness of the Domestic Abuse Coordinator.

11. Meetings with the Domestic Abuse Coordinator were well organized.

Mode = 6 (Strongly Agree)

12. The Domestic Abuse Coordinator demonstrates a competent knowledge of the subject matter.

Mode = 6 (Strongly Agree)

13. Meetings with the Domestic Abuse Coordinator have proven to be intellectually stimulating.

Mode = 6 (Strongly Agree)

14. The Domestic Abuse Coordinator seems to truly care about the issue of Domestic Violence.

Mode = 6 (Strongly Agree)

15. The Domestic Abuse Coordinator seems open to differing points of view on this subject.

Mode = 6 (Strongly Agree)

16. Meetings held by the Domestic Abuse Coordinator are informative.

Mode = 6 (Strongly Agree)

17. The Domestic Abuse Coordinator encourages others to learn more about this issue.

Mode = 6 (Strongly Agree)

18. The Domestic Abuse Coordinator demonstrates leadership abilities.

Mode = 6 (Strongly Agree)

19. The Domestic Abuse Coordinator has made additional resources available to me on request.

Mode = 6 (Strongly Agree)

20. The Domestic Abuse Coordinator has clearly defined the purpose of Domestic Abuse Coalitions.

Mode = 5 (Moderately Agree)

Discussion

The first ten questions asked respondents their general feelings on the efforts of the Domestic Abuse Coalitions. Respondents were generally positive in their answers--with the exception of questions 1 and 10. Question 1 asked the responding judges about the increase in pro bono representation, the most often recorded response was 3 (Somewhat Disagree) therefore, it would seem that for the majority of judges pro bono representation has not increased. Question 10 focused on the perception responding judges had regarding their expected role. The most often recorded answer was 3 (Somewhat Disagree) indicating that judges may think that too much is being asked of them.

The remaining ten questions are specifically directed at the efforts of Ms. Jennifer Juhler. Respondents were quite clear in their support for Ms. Juhler. All responses were positive and the majority received the highest score 6 (Strongly Agree). It would seem that her efforts were well received by the responding judges.

Qualitative Responses

The following responses to the "open-ended" questions are provided verbatum.

1. How many Domestic Violence Coalition meetings have you attended in the last six months?

No meeting per se. Have met with coalition director and assist. director a number of times. Also, we are trying to organize a seminar with local bar assn. including presentations from coalition & coordinator.

Three

Two

One

None, there has only been one since I was assigned, and I was unable to attend.

I attended two meeting and participated as a panelist in a third meeting which offered educational hours to medical personnel

Only meeting was with Ms. Juhler in Des Moines. First Dist. meeting is scheduled for March.

Assume this refers to local coalitions - 3 Attend 1 training session for judges Ms Juhler conducted and 1 community forum as well, though forum may not have been in last 6 months.

0 [zero]

None - I have not been contacted nor invited to any domestic violence coalition meetings.

One

2. The strengths of the Domestic Violence Coalitions are:

- a) Well organized means to deliver services to community and victims
- b) Good personnel who are dedicated to their work.

Professionals with diverse perspectives are brought together in an effort to reach common approaches to this problem.

Willingness to discuss other viewpoints to various issues

The coalition provides an opportunity for people from diverse backgrounds to share information.

Representation across a broad spectrum of agencies and interests.

The members currently composing the coalitions are dedicated to the tasks at hand and are willing to give of their time & energies

I'm assuming there will be exchanging information [SIC] that is important to public, professionals, courts etc. Hopefully public/court awareness of domestic violence will lead to better protection, prosecution, knowledge - I also assume we will all learn of our own respective disciplines problems / frustrations.

The dedication of individual members, good cross section of community.

Unknown to me at this time.

3. The Domestic Violence Coalitions could improve by:

More financial resources.

If even minimal funding were provided the situation would be improved

Including more groups.

Having more than one in the subdistrict

I think the coalitions need a broad base of membership. The coalition I belong to consists primarily of individuals who work with agencies having contact with either victims or perpetrators of domestic violence. It would be nice to have business persons, educators, and home makers as part of the coalitions

Don't know. Should know more after first district meeting

Can always use more money for program ideas and training / education. Tension between providers of victim services in civil verses criminal cases.

Unknown to me at this time.

4. The strengths of the Domestic Abuse Intervention Coordinator (Ms. Jennifer Juhler) are:

- a) Hard working
- b) Dedicated to her job.
- c) Sincere

She brings enthusiasm and energy to this project. She is able to weather storms that arise in the charged meetings are [SIC] bring people back to the subject at hand.

Knowledgeable Committed

Articulate
Helpful
Good moderator
Good listener
Organized

- a) Strong commitment
- b) Sensitivity to competing interests
- c) Intelligence

I find Ms. Juhler very knowledgeable on the matter of domestic abuse. I also find her receptive to ideas and articulate.

Strong personality sense of humor Passionate about the subject Knowledgeable

She's obviously knowledgeable and articulate. she seems to be able to work well with people from a variety of backgrounds. She's been prompt and helpful in response to inquiries / requests from me.

Leadership, dedication, interest in the subject, presentation of material in a group meeting. Good communication skills - appears to have good organizational skills.

- 1) Command of the subject matter
- 2) Consideration of the judges involved

- 3) Well organized.
- 4) Very bright
- 5) Considerate
- 6) Energetic
- 7) Well qualified for the position

5. The Domestic Abuse Intervention Coordinator (Ms. Jennifer Juhler) could improve by:

Making a clearer statement of goals to be achieved, and her role in achieving those goals.

No improvements needed

I have little to suggest. She does a superior job.

Although Ms. Juhler has identified for the judges the initial 2 goals the coalitions should be working on- more _____* representation and greater utilization of criminal proceedings - rather than _____* in the domestic violence area these are not the objectives of the local coalition I work with. I think it needs to be recognized coalitions will have their own individual goals. The goals of a rural coalition are going to be different from coalitions serving urban areas, primarily.

*These words could not be discerned from the respondent's handwriting.

Drop the magic markers & big tablets at meeting

No suggestions at this time.

No specific suggestions.

Other Comments

One judge submitted remarks about Ms. Juhler in a letter. His comments are as follows:

She is uniquely qualified to serve in the capacity of Domestic Abuse Intervention Coordinator. She has that rare quality of recognizing the interplay between varying interest groups and the effect of certain actions on the dynamic of that interaction. She is receptive to differing points of view and is capable of moving those differing views to consensus without developing disharmony.

I observe her maturing rapidly in the position assuming a leadership role that is effective and forward looking. She has an excellent commend of the subject area and uses her knowledge effectively to enlighten and encourage.

She obviously has a great concern about domestic violence and conveys a[n] intense desire to develop statewide programs to reduce the incidence of such violence.

She is enthusiastic and intellectually stimulating in her presentations.

Conclusion

It is clear from the judges' responses that they believe Ms. Juhler is well qualified for this position and carries out her duties with skill and enthusiasm. We anticipate that these appreciative views will emerge from the final evaluation as well.

In terms of the specific goals for Ms. Juhler's activities, some of the goals are being approached, but by varying degrees in different coalitions. However, we are confident that Ms. Juhler will determine the status of coalitions and their activities with judges and adjust her efforts accordingly. In general, progress is clearly being made and we anticipate that further advancement will be articulated in the final evaluation in September/October 1996.

64

Final Evaluation:

Iowa Domestic Abuse Intervention Coordinator Program

Iowa State Court Administrator

October 1996

Mark A. Grey, Ph.D., Principal Investigator

with
Robert J. Hunter, Ph.D.
Mary Bellone Grey. M.A.

Department of Sociology, Anthropology and Criminology
University of Northern Iowa
Cedar Falls, Iowa 50614

UNI Community Service Contract 96-044

Introduction

This report constitutes second and final evaluation of the Iowa Domestic Abuse Intervention Coordinator program. It follows an interim evaluation completed in March 1996. Both reports were contracted with the University of Northern Iowa. For both evaluations, Dr. Mark Grey of the University of Northern Iowa served as principal investigator, with the assistance of Dr. Robert Hunter.

Throughout the fiscal life of this program, the position has been held by Ms. Jennifer Juhler. Despite the continuity of having only one person serve in this position, her activities have varied over the last two years. This is not problematic in itself and demonstrates Ms. Juhler's flexibility and willingness to adjust her activities to achieve the objectives of her program. However, this change of program focus has required changes in evaluation strategies. There will be little continuity between the interim and final reports. The interim evaluation was designed to provide a diachronic perspective on the impact of Ms. Juhler's activities. But two issues emerged to prevent this. First, data collected in the interim survey were overwhelmingly supportive of Ms. Juhler and her activities. It would have been meaningless to send the same survey instrument to the same population (judges assigned to the domestic violence coalitions) to determine if any improvement had been made because in most areas Ms. Juhler already received the highest possible scores.

The other reason this final evaluation will not resemble the interim report is that a different group of people were surveyed and a new methodology--telephone interviews--were employed. After consultation with Ms. Juhler and in a revision to the contract dated September 13, 1996, it was determined that the final evaluation should be based on data collected from three sources: domestic violence coalition "contacts," domestic violence shelter directors and judges assigned to each of the state's domestic violence coalitions. Ms. Juhler provided lists of all three groups.

Methodology

Survey questionnaires (Appendix A) were mailed to coalition contacts and shelter directors (n=48). Each judge was contacted for brief telephone interviews (n=26). The protocol used for these interviews is found in Appendix B. Ms. Mary Bellone Grey--an experienced interviewer--was hired to conduct some of the telephone interviews. Others were conducted by Mark Grey.

Questionnaires were received from 33 coalition contacts and shelter directors. Four were received after the quantitative analysis was completed but their written remarks were considered in the qualitative evaluation. Each questionnaire included 20 Likert Scale questions and five "open-ended" questions.

All 26 judges were contacted and 22 interviews were conducted. The remaining four judges were out of town for extended periods or were unavailable. No judge refused to grant an interview. All interviews were conducted via telephone. Interviews were completed in as little as 10 minutes or, in some cases, more than 30 minutes. In general, judges welcomed the opportunity to share their views on their involvement with the coalitions and Ms. Juhler's activities. One judge even specifically requested a copy of this report.

Survey Results: Coalition Contacts and Shelter Directors

The twenty quantitative questions in the questionnaire asked respondents to rank their response on a Likert Scale. The scale ranged from 1 to 6 as the following format indicates:

- 1 Strongly Disagree
- 2 Moderately Disagree
- 3 Somewhat Disagree
- 4 Somewhat Agree
- 5 Moderately Agree
- 6 Strongly Agree

The <u>higher</u> the number, the <u>more</u> respondents agreed with the statement. In addition, respondents were given the opportunity to indicate that the statement was "Not Applicable," although very few respondents chose this option. Some of the questions concerned judicial involvement in the coalitions, but most concerned interaction with Ms. Juhler and her contributions to coalitions.

Analysis (n=29)

Due to the limited number of respondents (60%), the statistic used in this analysis was the <u>mode</u>—the response most often given for each question. The modes for each question were as follows:

1. Judges have made a positive contribution to the domestic violence coalitions.

Mode = 5 (Moderately Agree)

2. Judges should support the prosecution of violations of the Domestic Violence statutes (even if the victim refuses to testify).

Mode = 6 (Strongly Agree)

3. Interaction with the Domestic Violence Intervention Coordinator has raised my level of awareness of domestic abuse.

Mode = 5 (Moderately Agree)

4. I feel that the objectives of the Domestic Violence Intervention Coordinator position have been clearly articulated.

Mode = 5 (Moderately Agree)

5. My interaction with the Domestic Violence Intervention Coordinator has been positive.

Mode = 6 (Strongly Agree)

6. I feel that the Domestic Violence Coordinator has contributed to positive developments in the judicial process of domestic violence.

Mode = 6 (Strongly Agree)

7. Overall, discussions held with the Domestic Violence Intervention Coordinator have been effective.

Mode = 6 (Strongly Agree)

8. The leadership training provided by the Domestic Violence Coordinator has been helpful.

Mode = 6 (Strongly Agree)

9. The purpose of judicial involvement in the Domestic Abuse Coalition has been clearly defined.

Mode = 5 (Moderately Agree)

10. Expectations for the role of judges in the Domestic Abuse Coalition are reasonable.

Mode = 6 (Strongly Agree)

11. Meetings with the Domestic Abuse Coordinator have been well organized.

Mode = 6 (Strongly Agree)

12. The Domestic Abuse Coordinator demonstrates a competent knowledge of the subject matter.

Mode = 6 (Strongly Agree)

13. Meetings with the Domestic Abuse Coordinator have proven to be intellectually stimulating.

Mode = 6 (Strongly Agree)

14. The Domestic Abuse Coordinator seems to truly care about the issue of Domestic Violence.

Mode = 6 (Strongly Agree)

15. The Domestic Abuse Coordinator seems open to differing points of view on this subject.

Mode = 6 (Strongly Agree)

16. Meetings held by the Domestic Abuse Coordinator are informative.

Mode = 6 (Strongly Agree)

17. The Domestic Abuse Coordinator encourages others to learn more about this issue.

Mode = 6 (Strongly Agree)

18. The Domestic Abuse Coordinator demonstrates leadership abilities.

Mode = 6 (Strongly Agree)

19. The Domestic Abuse Coordinator has made additional resources available to me on request.

Mode = 6 (Strongly Agree)

20. The Domestic Abuse Coordinator has clearly defined her role in the Domestic Abuse Coalitions.

Mode = 6 (Strongly Agree)

Of the sixteen questions related to Ms. Juhler's performance, fourteen received the highest possible response (Strongly Agree). For the two remaining questions, the model response was 5 (Moderately Agree). However, question 3 should be taken in context: since respondents were professionals involved in domestic violence activities, it stands to reason that their level of awareness was already quite high. Yet they still responded that their interaction with Ms. Juhler has raised their level of awareness. Question 4 does not directly involve Ms. Juhler's activities but the degree to which the objectives of her <u>position</u> have been articulated. Still, respondents moderately agreed that these objectives have been articulated.

Responses to these sixteen questions about Ms. Juhler's activities clearly indicate that her efforts are well received and appreciated by domestic violation coalitions and shelter directors. Indeed, one respondent took the effort to write a formal letter praising Ms. Juhler's activities (Appendix C).

The four survey questions that addressed judicial involvement in the domestic violence coalitions also received a high degree of agreement. Respondents obviously feel judicial involvement is valuable. But this enthusiasm was adjusted to some degree in the responses to opened questions as the following analysis will demonstrate.

Written Responses from Coalition Contacts and Shelter Directors

Responses to Question 1--concerning the number of meetings attended--will be condensed into essential statistics. However, verbatim responses to the remaining questions from all returned questionnaires will provided. A brief synopsis would suffice, but providing the actual responses in full will provide a much richer description of respondents' feelings. It will also afford Ms. Juhler a more detailed understanding of these feelings and how they might direct her future activities.

The written responses will be taken from the questionnaires verbatim. Spelling was corrected, but grammar was not. Unreadable words are indicated as such. All information that identifies individual judges is eliminated.

1. How many meetings related to domestic violence have you attended in the last six months?

Average number of meetings attended: 18 Median number of meetings attended: 12

Range: 3 to 78*

*It appears that some respondents did not realize the question asked for the number of meetings attended in the last six months only. In some cases, respondents included batterer's education program meetings as well, so the range should be considered tentative. The most important (and reliable) number is probably the median.

2. How would you characterize the judge's involvement in the Domestic Violence Coalition?

peripheral--available as a resource

It has been minimum involvement but he has contacted organizer if unable to attend.

One-sided, they are there to ease the burden on themselves caused by so much domestic violence, ie changing paperwork, etc. to make their jobs, and those of their co-workers easier.

Very Helpful. Offers a connection to the judicial system.

Very necessary, unfortunately the judge we have involved in our coalition is not very knowledgeable about D.V.

Very little involvement

The judge assigned to one of the coalitions is attempting to contribute in a non-prejudicial way. He has brought up problems he has encountered as a judge and asks coalition members for help in understanding and looking for solutions.

Adequate. Useful info. provided regarding civil court, but no criminal court judge attends the meetings.

We've been impressed with the leadership role the judge has taken; his involving other judges to address our coalition

As to date non-existent

A little distant but does explain his position and limitations to group

One judge just recently started and is excellent. One judge is quite regular; excellent. Other judges are pon[?] or haven't seen-

A real positive impact. Not in a leadership role, but the presence alone is enough to get people's attention. Positive impact.

In our judicial district I would give the participating judges a "9" (on a 1-10 scale). Magistrate participation is non-existent. A "team-effort" or commitment from all judges at each level is absent.

For the most part, encouraging!

Very beneficial. Although the judge assigned to our coalition has not taken a leadership role, he has been instrumental in encouraging other judges to participate. His attitude has been one of it's not being done, why not and who's responsible. He has been very good at getting the system to follow through on what the law and their own policy dictate.

The judges that aren't coming to coalition meetings are the ones who need to be the[re] the most.

Likert 1 2 3 4 5 [This respondent circled the "2" on the scale]

The judge's presence is positive, and she seems interested and concerned. She helps us understand court proceedings and the laws.

Less than needed locally.

Our local judge attends very few meetings. I believe a stronger appearance would encourage better communication, prosecution without witness, etc.

Judge _____ is very involved and if his schedule is considered, he doesn't miss meetings. He is involved with current issues, helps with BEP trainings, etc. An asset!

An active participant.

Very involved and in fact is the chair of our coalition.

Since judges involvement-coalition makes more decisions.

Our coalition has a District Judge who has attended several meetings.

It appears as though the judge we have involved is open and willing to coordinate

He has only attended 3 meetings.

....proactive, forthright, leader/moderator. Others-inactive participant

Distant. Directive...un-inquiring about difficulties victim's encounter with law enforcement and judicial system

reluctant

The 2 are very involved the others are not at all.

3. How could judicial involvement in the Domestic Violence Coalitions be made more useful?

As a spokesperson that other judicial personnel can see and hear in regard to appropriate response to D.V.

They should not serve as leaders--they are not experts on DV! They refuse to acknowledge what the experts do and say, ie they want the coalition to form a speakers bureau to talk about DV in the schools when the DV victim service agency is already doing that! They don't realize that they are some of the people we are still trying to educate

Participate in coalitions

Right now the District judges and some of the Associate District judges attend coalitions but most have little involvement in domestic cases. The magistrate[s] need to come. Their presence is a start.

Include criminal court judges who are interested and see a significant number of domestic abuse cases.

I think it is already happening--the process has started. By their involvement of listening and sharing information/education

Becoming involved

Be more clear of his expectations for court and how to facilitate this.

By attending and listening to concerns/problems and offering judicial advise--

Magistrates need to be better informed and more involved in meetings and training since a lot of domestic cases are simple misdemeanors, Need to [be] more knowledgeable.

Non-assigned judges/magistrates might be required to rotate attendance quarterly and report back to their peers at their meetings.

I wish all segments of the system would work on the same level of commitment instead of the few that do!

If more judges get involved in the rural areas. It is very difficult to organize coalitions in these areas and judicial leadership could be helpful.

To realize this is a place to come together to find solutions--not complain

I'm unsure.

By increasing frequency/regularity of that involvement

[the judges' involvement] could be the link to the rest of the groups that discuss d.v. in our area

I would like to see more involvement by magistrates, clerks of court and judges who resist following to mandates. They need positive exposure so they might comply and change attitudes.

Helping our coalition to be more focussed. Help work toward the goal of prosecution even if victim is unwilling or unable to testify.

More district court judges should be involved.

Bringing local judicial perspectives to the coalition

Provide visible interest in the issue in supportive role and consistent follow through

Defined expectations shared with all coalition members. Individual training of judges with program coordinator of D.V. programs, victims issues, ways of being effective for positive change.

visit and[?] shelter[...] spend time with an advocate or victim

4. The strengths of the Domestic Abuse Coordinator (Ms. Jennifer Juhler) are:

organization; professionalism; knowledge of DV issues; involvement with judicial component; active involvement in STOP Violence Against Women Coordination Council

concerned, energetic, knowledgeable, diplomatic, responsible/reliable

Broad knowledge base regarding domestic violence issues. Easy to relate to

Compassionate, knowledgeable about DV, concerned, diplomatic

good communication skills and knowledge of domestic abuse.

The Round Table Discussions were a monumental task to take on. I think they showed just how big the level of resistance within the system really us. Jennifer did a good job of hanging in there and being tactful at times when I was jumping out of my chair. Jennifer has headed up the Domestic Abuse Protective Order Registry Committee of which I have been a member. Again, a difficult task that she has done very well with. Working with some very well respected judges and county attorneys. Her intelligence and organizational skills have truly stood out. Jennifer has been involved at all levels. She has come to our coordinators' meetings and worked with us on coalition building, listened

as we vent frustrations. She is also organizing a conference that will bring together all parts of the system. She's managed to land some excellent speakers. Jennifer is extremely motivated and I believe has far exceeded the expectations of her position. Her employment has been the <u>best</u> use of monetary funds I have seen in a <u>long</u> time.

Strong interest and commitment to changing system's response to domestic violence. She is diplomatic in attempting to bridge gaps and seems to have a good understanding of the judiciary and inherent problems in making changes in a system that has many independent agencies who don't seem interested in working together.

Well organized, good communication skills, ability to be direct in a positive way, excellent at reframing a problem/issue to keep everyone connected.

Knowledgeable, friendly, caring, well informed, personable

excellent presenter, good communicator, major involvement and concerned about the issue.

highly organized, professional, articulate, committed to domestic abuse issues, resourceful, visionary, can (and does) tethered[?] a jagged fence successfully, confidential, preventative (v[ery]. reactive, positive reputation proceeds her.

Knowledge, leadership. Understanding of all issues.

Her diplomacy. I have seen her discuss the issues of domestic abuse with people who have very different views and she has always done so with tact and respect. Her knowledge of domestic violence and working with victims has been very beneficial.

Highly intelligent, articulate, very knowledgeable and self-assured.

Organization, knowledge, desire

Jennifer is very professional, intelligent and well versed concerning domestic violence. She's building bridges!

bright, knowledgeable, energetic, well organized, experienced

very organized, fair, willing to hear all sides, good facilitator.

- 1. real concern for issues of DV
- 2. Willingness to listen and not just suggest ideas but work with individuals to use suggested ideas
- 3. Available to me, communications

A person directly involved with the judicial system who works as a liaison.

Knowledge of DV Services, victims, etc. Combined with knowledge of role of judges--Good communication She has brought the judges involvement in the Domestic Violence issues to a level of better communication with other agencies involved.

Strong leadership and knowledgeable

- A. Supportive role--responsive to issues
- B. Knowledgeable, positive, low-key
- C. Challenge without confrontation as necessary

Networking ability

Excellent--Need to see her more

5. The Domestic Abuse Intervention Coordinator (Ms. Jennifer Juhler) could improve by:

Informing Iowa Coalition Against Domestic Violence member programs about the progress being made in Iowa regarding judicial component

I feel she is addressing the important issues in [a] reasonable manner.

periodic attendance at coalition meetings

If time allowed [...] focussing more efforts on how the system needs to make offenders more accountable.

N/A...Keep up the good work, Jennifer!

Having a more direct personal involvement with individuals. Updates by letter/newsletter.

Cloning herself!

N/A. She does an excellent job.

Having someone help her.

I'm sure there are areas in which she could improve, however, my contact with Jennifer has been very positive and know of no specific areas for improvement.

Is doing an excellent job and has done all that can be expected by one person covering the whole state.

She has done well by our coalition and getting judges involved.

more contact with local DV projects

- A. Consistent methods of interaction with coordinators
- B. Sharing information/resources (newsletter?)

more state bulletins

Discussion

It is clear from the responses to Questions 2 and 3 that coalition members appreciate judges' participation. However, it is also clear that participation and level of commitment are mixed. They range from actually chairing the coalition to being "distant." There is also some concern about expectations for judicial involvement on the part of coalitions and judges. Formulating clear guidelines for these expectations may be a worthwhile activity. Although these guidelines have been articulated to some degree by the State Supreme Court, how can they be translated into a "working document" that will benefit coalitions' understanding of judicial involvement?

It is also quite clear from responses to Questions 4 and 5 that Ms. Juhler enjoys overwhelming support. Indeed, responses to Question 4 make a formidable list of positive indicators. They speak for themselves. It is also important to note the <u>lack</u> of responses to Question 5. This indicates that most respondents felt that no improvement was necessary. The one suggestion that appeared more than once concerns the publication of a "newsletter." (Some judges also suggested this.) What this particular suggestion would look like was not articulated. But this suggestion seems worthy of further study.

Judicial Interviews

Due to limited time and resources, telephone interviews were not tape recorded. However, responses were transcribed by the interviewer, often verbatim. Often the time spent writing notes about the conversation was longer than the actual interview.

The responses for each of the eight questions are listed below. Following this list of responses we present our synopses of the judges' perspectives on the issues raised in the interview questions.

1. How often have you been able to attend domestic violence coalition meetings?

I was not appointed until last April, I've only met with Juhler 60% of the time due to scheduling trouble monthly

I make most of them when I'm in the county not regularly, it conflicts with another meeting ten per year, we meet monthly every two months

none, has tried to rectify the situation, logistics have kept him, not attitude every scheduled meeting every scheduled meeting three or four, they meet monthly missed one, sessions every two months every other one, meet monthly

2. How would you characterize your involvement in the coalitions?

on going and productive
very active, lining up programs and coordinating with agencies
very active

liaison to judiciary, express judicial concerns on how effective coalition can be, also efficiency of judicial process, how it works and how to make it more effective/ not an advocate, but a liaison

I attend and take part, I'm not an advisor

Helpful for him and for coalition, they are learning about each others' sides of issues

strong involvement

advisory

pretty active, serves on sub-committees

as a observer and participate with comments

I'm interested

impartial, not an advocate, not biased

good

minimal

interested in complaints, not leader, active participant

as a resource, discussing judicial level, defining role

3. What do you bring to the coalitions?

perspective of needs of the court from other agencies/follow up and consistency

hands on experience in court system, facilitator of groups, knowledge of how cases should be presented to court

organization and issues; changes of method by court attorney for dealing with victims; trying to set up <u>pro bono</u> for civil no contact violations; identifying protocols of agencies; logistical problems of duplicating 236 violations for instance contempt and breaking the 236 order.

open communication between judges and coalition

judiciary perspective

experience on the bench as well as perspective of law enforcement and attorneys

judicial perspective

perspective of the judicial, the coalition has moved from focusing on the batterers to a broader perspective with community involvement, it is looking for a holistic view of abuse and how agencies meet the needs by tracking victims and batterers through the system

bring info about laws and requirements and procedures work

expertise as judge

my ears-I'm willing to listen

make sure access was available to court, remove impediment, in line with Drake law school students to prosecute civil contempt

judicial input/ brought all judges from subdistricts and assistant judges to explain our side and learn about issues

willingness to listen, find out what it's all about

different perspective, encouraged judicial branch involvement from attorneys and judges judicial experience, represent court side

4. Do you believe that court involvement in the coalitions makes the courts seem more accessible?

I think it does

yes

I can't say, ask other members of the coalition; hopefully, I get new perspective from meetings

yes

yes

I hope so

yes

maybe to other participants it does, chance to see judge as human

yes

I think it does, primary service providers (YWCA) may disagree

not to petitioners, but to social services and probation

I have not felt that I have been inaccessible

to people who attend the meetings

I think so, at first it was the advocates versus the court

5. What are some of the ethical issues related to judicial involvement in the domestic violence coalitions?

avoid appearance of partiality

They are not resolved or settled, public speaking on this issue would show partiality

hard to maintain neutrality and not take on issues or agency expectations; also fund raising, vying for money between agencies.

appearance of impropriety; I can't fund raise or speak out; judge's involvement is conflict of interest since he is administrative judge for juvenile court

emphasize that we are neutral and that the coalition may not be an advocate for either side. I cannot participate in any advocacy group

biggest problem, avoid appearance of impropriety or agenda, keep impartiality, I feel caught by the position the supreme court has put me in as a judge

we can't discuss how we would rule on a particular issue, we need to protect confidentiality you need to be an active judge yet not run the organization, do more than just sit on the bench

Confidentiality, can't be involved in political or fund raising, judicial pressure as well as pressure from other judges

if these people would ever appear before me, if a case I will be hearing is discussed

whether or not you insinuate yourself on one side or the other, he would rather make a mistake in favor of the abused

not favor one side or other, walks fine line. By virtue of being at these meetings, perceptions make it seem like he's choosing sides

no concerns of ethics, just makes him aware of their issues

gives appearance of side-taking, away from constitutional role of impartiality; expands court's traditional role

does not perceive ethical problems, is not swayed by coalitions

none that I know of, supreme court said there was no ethical involvement and that is what I have seen

6. What kind of resources/information would assist you in your involvement in the coalitions?

sources of funding; educational programs coalition members and victims

professionals can only do so much, you need community involvement

need more bodies, agencies are over extended; non-court agencies go to funded services for self-interest

any info they would supply to me

I cannot think of any, enough advanced notice to schedule, minutes are also helpful

I'm fortunate that coalition is well attended

none

info about how other coalitions are working

can't think of anything

I can't think of any

none he can think of

unlimited source of funds, assistants or clone of himself

if we had info of different protocol from different coalitions

no idea

I can't think of any off hand

extra judicial meetings or communications, more info sharing between coalitions

7. How can Ms. Juhler [State Domestic Abuse Prevention Coordinator] be of assistance in these regards?

She's been very willing [to help] talk to the bar and explain issues

she already has helped by letting us know what is available, more communication about what is available would help

resources to know what's out there. I rely heavily on her; contacts her as resource on court issues and to help focus on issues to be addressed by supreme court or legislature to develop state-wide procedures.

Juhler has already been of assistance meeting with him privately-especially her statement of how she saw his role in the coalition and how she sees a the coalition working; he understands his role to be different than other members of the coalition

assistance with specific questions, she has been helpful already, availability

She's always been accessible

she's kept us well informed, she's doing a good job; we sat in on Scott county's meetings, they are writing the book on this

she does an excellent job; a news letter or some communication about what she is accomplishing and where she is going, either through e-mail or letters

she's doing what she needs to be doing, knowledgeable resource

annual update training

her continued exposure to all people about issues

helping line up skilled prosecutors to help train law students; copies of a volume written about how to prosecute batterers called <u>Representing Victims of Domestic Abuse</u> to help in training - she's very good, helpful; gather info and disseminate it

not sure

I think she's doing a very good job; she has helped me understand the cycle of abuse, why women file one day and dismiss the next

she does good work

8. What further guidance from the state supreme court would be helpful?

regular communication of expectations of judges and open lines for judges to contact court

rules and procedures relating to ch 236; it's a non-traditional area and issues need to be addressed (custody, visitation, property) exparte and that doesn't square with due process, nothing systematic yet

I don't know that there is anymore that they could provide. Jennifer's role is more important than contact with supreme court, she's our voice in legislature and supreme court and a sounding post for ideas.

a statement as to exactly what the judge's role is

if there is a long term plan for court's involvement in coalition; is this to help get coalitions going or will this be on going?

biggest problem is <u>pro se</u> trying to maintain neutrality and still have a record made, some procedural direction or volunteers or legal service would be helpful; another concern is about appearance of being on coalition to the batterers and victims; biggest benefit is all the varying perspectives from all who attend the coalition; supreme court should define the role of the judge

I can't think of any; her position is important, Ms. Juhler brings message to the legislature; concerns are that the statute does not fit for unborn child, he had to deny a protective order. No contest does not address pregnancy, it should be added to the definition of 236; also emotional abuse is not in the statute, just physical assault and threat of physical assault, this should also be clarified but is not as pressing a need as pregnancy issue

does not feel supreme court dictates his role and is very comfortable w/ defining role by himself

There may need to be more guidance through education and training made <u>mandatory</u> for all judges because judges are not as knowledgeable about domestic violence, basics of law and our role in it

I would like to see things clarified by the legislature and when no contacts should be lifted; more clarification of the law

concerned about judges role/clarify; upset about cases being dismissed, bothered by being called after hours to give restraining order only to have cases dismissed two days later

ethics quandary- impartiality, ethical responsibility, will I be labeled as home wrecker by Des Moines Register? A meeting with supreme court members would have been helpful; what were expectations from court about what is judicially ethical and what is not?

they don't deal with these issues, what would they know? they have done the one thing that's most helpful, appoint Jennifer, leave her alone.

satisfactory explanation of why this is a good thing for judges to be involved in; an understanding of why judges should be involved

unclear as to his role as judge and role of coalition; 2 problems: 1. coalition meetings monthly at noon and judges have to rotate so he will miss 8 of 12 meetings; 2. if we get to point of public meetings, how far should a judge go in participating and how much can he express, if court could clarify how public he could be with personal comments with domestic abuse law

the supreme court does not have the hands on experience with these cases to tell us what to do, we don't need a committee that has not dealt with this issue first hand to define our roles

definitions are very vague regarding judges role and when no contact order should be issued

it may be more appropriate for legislature to define roles of judges

judges are frustrated by cases being filed and then dismissed two days later

Synopses of Judicial Responses

1. How often have you been able to attend domestic violence coalition meetings?

The meetings were different from district to district. Some coalitions met monthly, while others met every other month or quarterly. The response to the initial question was that most of the judges interviewed tried to make every meeting that they could. There were conflicts for some of them due to other meetings or being assigned to a different county on the day of the meetings. One judge stated that with his tight schedule, if the coalition did not give him enough advanced notice he would typically have a conflict with the meeting. He stated that the coalition was getting better about notifying him. One judge stated that he was not able to attend any of the meetings, however, he was in touch with coalition members about twice a week.

2. How would you characterize your involvement in the coalitions?

The response to this question foreshadowed concerns about their roles in the coalitions. Answers ranged from very active and being a part of the coalition, to stating that they were not advocates but there in an advisory or liaison role, to stating that their involvement was minimal. Most judges described themselves as involved either in an advisory role or participant role; only one judge called his participa-

tion minimal. One judge stated that his affiliation with the coalition is useful but to actually be a member would be a conflict. He stated that judges participate but maintain separateness as entity.

3. What do you bring to the coalitions?

Most of the judges stated that they brought the judicial perspective as well as that of law enforcement and attorneys to the coalitions. They gave the groups an understanding of what steps are necessary in preparing cases that are to be presented and what the steps are that are taken by the judicial system. Of course this is done with confidentiality, specific cases and names are not discussed. The judges also have answers to what protocol changes have taken place by court attorneys and how that will affect the service agencies. Issues of what will affect clients include: identifying protocols of agencies looking for holes or duplications in services; tracking batterers and victims through the system to look for trouble spots; trying to set up law students to do pro bono work for civil no-contact violations; trying to make sure the system runs smoothly, for instance making sure that once charges have been dropped that they are dropped throughout the system. They were brought up by several judges as things they saw important to clarify during or through coalition meetings. A couple of judges bring judges from sub-districts with them to explain their side to the coalition as well as to learn about the issues. Several judges stated that the coalitions have been helpful for them to learn more about the cycle of domestic abuse. It gives them some insight into the frustration of cases that are dropped days after they are filed.

4. Do you believe that court involvement in the coalitions makes the courts seem more accessible?

Nearly all of the judges stated they thought the courts seemed more accessible. One judge stated that at first it felt like the advocates v. the courts but that they had worked through that. A couple of judges stated that they had never felt they were inaccessible. Several stated that it was the service providers which might recognize this accessibility the most, rather than the victims or the batterers. One judge stated that yes he felt they were seen as more accessible, yet there was a down side in that neutrality is affected by being actively involved in a particular issue. One judge stated that while he thought that the courts seemed more accessible, the primary service providers might disagree.

5. What are some of the ethical issues related to judicial involvement in the domestic violence coalitions?

The main concern of the judges in this regard was not to be seen as "taking sides." Remaining impartial was their greatest concern. Other concerns included: maintaining impartiality, whether or not to speak publicly, fund raising, concern that others may see judges as having an agenda, and not discussing how they would rule on a particular case within the coalition. One judge felt his involvement in the issue is a conflict of interest since he is the administrative judge for the juvenile court. Several judges questioned whether or not they could speak publicly about this issue, while others stated that they knew that as a judge they could not have a public voice. One judge stated that the coalition may not be an advocate for either side and that he could not participate in an advocacy group. A few judges did not have ethical concerns. One stated that he did not have any ethical concerns, that the coalition just made him aware of issues. Another judge stated that the supreme court did not see it as an issue and that is what he has experienced also. One judge stated that he felt being a member of the coalition was causing the courts to expand their traditional role. The following two statements show the wide continuum of judges' perspectives:

"You need to be an active judge, yet not run the organization, do more than just sit on the bench."

"I feel caught by the position the supreme court has put me in as a judge."

6. What kind of resources /information would assist you in your involvement in the coalitions?

A couple of judges emphasized the importance of community involvement, stating that social services and the court systems are so over extended that you need more than what's available through services already provided. One judge asked that enough time be given in advance to plan on attending meetings. Other judges stated that information about how other coalitions are running would be helpful, for instance about different protocols. Some judges would like to see information sharing among coalitions. One judge stated that increased sources of funds would be helpful as well as educational programs for coalition members and victims. Another judge felt that extra judicial meetings or communications would be helpful. At least half of the judges stated that they could not think of anything additional that would be helpful.

7. How can Ms. Juhler [State Domestic Abuse Prevention Coordinator] be of assistance in these regards?

Overwhelmingly the judges were very complimentary of the job that Ms. Juhler has done to date. They noted that she was always available to them and very responsive to their concerns, she has been a good sounding board for ideas, also to help focus on issues to be addressed by the Supreme Court or legislature to help develop statewide procedures. They appreciate that she: lets them know about what is available; represents them as a whole to the supreme court and legislature; and is in fact the judges advocate. A couple of things were mentioned that might be helpful: a newsletter or some communication; while her keeping in touch with them has been very helpful they hope that it continues, they also would like more advanced notice about what programs are available; annual update training; her continued exposure to all people about issues; line up skilled prosecutors to help train law students who could then prosecute violators of civil no- contact orders; her vision of what the judges role is in the coalition has been very helpful to me. One judge stated that if she could get hold of several copies of the book Representing Victims of Domestic Abuse that these would be very helpful for training purposes for young prosecutors.

8. What further guidance from the state supreme court would be helpful?

Many judges feel that they are reinventing the wheel by coming up with what their role should be in the coalition. They would like more specific guidelines from the supreme court about what their role is, as well as what expectations the supreme court has for them. Maintaining Jennifer's role is something they see as important since most judges felt that her position was their voice to the supreme court and the legislature. Another judge stated that he felt the court needed to clarify procedures relating to Chapter 236. It's a nontraditional area and issues need to be addressed (custody, visitation, property) exparte and that does not square with due process. Another judge wondered what the supreme court's vision is for the judges involvement in the coalitions. Is this a short-term thing until coalitions get started or are judges members for the duration? One judge stated that the biggest problem was pro se, trying to maintain neutrality and still have a record made. Some procedural direction or volunteers or legal service would be helpful. Another judge brought up a concern that the statute does not fit all cases. He had a case where the child was not born yet and the couple was not married and he could not issue a no-contact order. Another issue that is not addressed by Chapter 236 is that emotional abuse is not covered. Another judge stated that mandatory training about domestic violence and the basics of the law and their role in it would be helpful since judges are not very knowledgeable about the subject. Another judge asked for more clarification from the law as to when no-contact orders should be ordered and when they should be lifted. What are expectations from the court and how do they define judicial ethics? One judge wanted a "satisfactory explanation of why this is a good thing for judges to be involved in." Other judges stated that the supreme court does not work with these cases directly and does not know as much about it as the judges do so they should not be telling the judges how to run things. One problem that many of the judges face is that they are on a rotating schedule and therefore logistically it is impossible for them to attend all of the coalition meetings. One judge felt it might be more applicable for the legislature to define the judges' role in the coalitions.

Discussion

The judges clearly support Ms Juhler and her contributions. Indeed, they are appreciative of her expertise and ability to draw together the diverse interests--including themselves--involved in domestic violence.

We feel the interviews with judges also provide some direction for Ms. Juhler as she plans for the next two years. However, the difficulty will be in limiting her role. Indeed, the high level of contact and expertise that has come to be expected by the coalitions will be difficult to maintain. But in addition, the concerns of judges must also be taken into consideration. They seem to feel that she should devote her energies to addressing their principal concerns; that she should be working more to represent their interests, particularly to the legislature to address the ambiguities in the current law.

The coalitions and judges make up two forces that place demands on Ms. Juhler's time and energy. They are not necessary incompatible, but we question whether she will be able to continue providing service to both constituencies at the level to which they have become accustomed. We urged her to prioritize her efforts in consultation with the state court administrator and the supreme court domestic

violence committee.

Conclusion

The data collected for this final report clearly indicate a high level praise for and appreciation of Ms. Juhler. We are impressed by the overwhelming support she received. There is no doubt that she has made considerable contributions to the domestic violence coalitions and their efforts to understand and confront this important issue. In addition, her efforts over the last year to train and involve judges in the coalitions has met with a high degree of success. We trust that these efforts will continue to flourish under her direction.

Appendix B

Roundtable Materials

Second Judicial District Domestic Abuse Roundtable Agenda

October 6, 1995

I. Introduction

- —introduction of facilitators and participants
- —purpose & update on Supreme Court activities
- —ground rules

II. Assessment of system response to domestic abuse

—trends and barriers

III. Factors for successful collaboration

- -knowledge of others
- -practical experience of successful collaborative work

IV. Conclusion

—possibilities and limitations of a "seamless" system

Handouts for today's session are from two publications of the Amherst H. Wilder Foundation, *Collaboration: What Makes It Work*, 1992, by Paul W. Mattessich, Ph.D. & Barbara R. Monsey, M.P.H. and *Collaboration Handbook: Creating, Sustaining, and Enjoying the Journey*, 1994, by Michael Winer & Karen Ray.

GROUND RULES

- 1. Assume that we all bring valuable personal & professional experiences to this process; & because we are people, we also bring biases.
- 2. Assume that we are all doing our jobs in the best way we can.
- 3. Assume that each individual is doing the best that she/he can to communicate.
- 4. Assume that we all can do better at our jobs and at communicating with each other.
- 5. Assume that we will demonstrate mutual respect for each other through our word choice & our body language.
- 6. Assume that others will listen to you. Assume that when someone disagrees with you that he/she will first attempt to fully understand what you are trying to say.
- 7. Assume we will all follow the ground rules.

Domestic Abuse Roundtable Evaluation Summary

1. The roundtable agenda allowed adequate time for exchange of ideas.

AVERAGE = 3.99

STRONGLY DISAGREE NEUTRAL AGREE STRONGLY N=327DISAGREE AGREE 3 4 5

2. I think it is important to have a "seamless" system.

AVERAGE = 3.75

STRONGLY DISAGREE NEUTRAL AGREE STRONGLY N=308 DISAGREE 1 2 3 4 5

3. The facilitation of the roundtable was adequate and appropriate.

AVERAGE = 4.15

STRONGLY DISAGREE NEUTRAL AGREE STRONGLY N=331 DISAGREE 1 2 3 4 5

4. The most helpful information was . . .

1. Networking/gaining a greater appreciation of struggles and goals of other disciplines.

2. Trends and barriers.

3. Hearing from judges and clerks.

4. Hearing the the job responsibilities of others.

5. The least helpful information was . . .

1. Negative attitudes expressed be members of various disciplines.

2. That we still have we—us—they attitudes.

6. I need more information on . . .

1. Victim services, especially in rural areas.

2. The Batterers Education Program.

3. The law and new legislation.

4. Domestic violence and kids.

5. Coalitions and how to work together to end domestic violence.

7. I would be interested in participating in another district level roundtable. AVERAGE = 3.76

STRONGLY DISAGREE NEUTRAL AGREE STRONGLY N=313 DISAGREE 3 4 5

8. The room and accommodations were comfortable.

AVERAGE = 4.03

Strongly disagree neutral agree strongly N=319 disagree 1 2 3 4 5

9. If I were conducting this roundtable I would have . . .

1. Kept it the same.

2. Been more directive.

3. Been less theoretical.

4. Scheduled more time for the roundtable.

5. Scheduled less time for the roundtable.

Appendix C

Judicial Leadership Project Materials

Special Concerns Involving Judicial Participation in Domestic Violence Coalitions

In June 1995 the Supreme Court affirmed the appropriateness of judicial involvement in domestic violence coalitions "as long as [judges'] obligation to remain neutral in individual cases is not compromised." Judges in the state of Iowa are bound to a set of ethical considerations outlined in the "Iowa Code of Judicial Conduct." The code sets forth certain expectations that bear on the possible actions of coalitions if those coalitions are to have judicial participation. What follows are relevant excerpts from the "Iowa Code of Judicial Conduct" (Iowa Rules of Court, 1994, pp. 688-706) and commentary on coalition activities.

1. The structure of your coalition should adequately allow for a judge to remain impartial. The mere appearance of bias is a cause of concern for judges. If your domestic violence coalition has active participation from prosecution, a very real attempt needs to be made to have active participation from the defense bar as well. If you have not done so already, you should invite public defenders and private defense attorneys to be a part of your coalition. If they refuse to become active participants, arrangements should be made to include them in your official coalition communications such as receiving meeting notices, agendas and minutes.

Canon 2. A judge should avoid impropriety and the appearance of impropriety in all activities.

A. A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Judges will be prohibited from assuming advocacy roles concerning many of the issues which will be considered by domestic violence coalitions. Consequently, if judges are to be member participants in coalitions, the coalitions may not advocate, as membership organizations, those positions which the judges are prohibited from advocating. The issue of domestic violence has been brought to the attention of the general public through the diligent work of domestic violence advocates. This has led to a strong connection in the minds of some people that the issue of domestic abuse is necessarily linked to a specific agenda that may not be shared by all people. There may be the propensity of some individuals to label any efforts to better the administration of justice as it relates to domestic abuse as advocacy for a particular view/social agenda. In fact, some coalitions have done advocacy work, such as writing letters to the editor about specific cases. Judges are not prohibited from speaking out to better the law, and, of course, judges have no conflict with being against crime. However, judges do have to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." If your coalition has taken an advocacy stance in the past, it will not be able to do so if it wishes to have the full participation of the judiciary. This is not to suggest that people who are members of a coalition cannot fully advocate their point of view or their social agenda. The advocacy would simply have to remain outside the official realm of the coalition.

2. <u>Judges have to look at the big picture</u>. It is vital that coalition members not provide information regarding the circumstances of specific cases. If you provide the specifics of a case, a judge may have to disqualify himself or herself from completing his or her primary responsibility. Since coalition work is quasi-judicial and of secondary importance, all coalition members need to perform their duties within the coalition in a way that allows judges to view the large picture and to avoid specific facts.

Canon 3. A judge should perform the duties of office impartially and diligently.

D. Disqualification

- (1) A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:
 - (a) The judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
- 3. <u>Do not ask for or expect favors</u>. Judges maintain powerful positions within our communities. They are mindful that with this power comes certain responsibilities. If you expect a judge to favor a certain aspect of a case as a result of your connection with that judge on a domestic violence coalition, you will put yourself and the judge into an awkward situation. While a judge will work hard to remain at a certain distance to protect the independence and impartiality of the judiciary, coalition members should understand the necessity for that distance and honor it as well.
 - Canon 2. A judge should avoid impropriety and the appearance of impropriety in all activities.
 - **B.** A judge should not allow family, social, or other relationships to influence judicial conduct or judgement. A judge should not lend the prestige of the office to advance the private interests of others; nor should a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.
- 4. Watch out for fundraising activities. If your coalition is involved in fundraising activities, it is important to note that a judge is not permitted to participate in public fundraising activities. If this were to happen, it might cause community members to feel obligated to donate in order to retain a favorable status with the judge. The canon does go on to say that judges can have a role in the internal funding issues of an organization and can write letters of recommendation for grants, etc.
 - Canon 4. A judge may engage in activities to improve the law, the legal system, and the administration of justice. A judge, subject to the proper performance of judicial duties, may engage in the following quasi-judicial activities, if in doing so the judge does not cast doubt on the judge's capacity to decide impartially any issue that may come before the judge:
 - C. A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice. A judge may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. A judge may make recommendations to public and private fundgranting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

Judicial Leadership Training

November 9, 1995 8:30 a.m. to 3:30 p.m.

- I. Coffee and discussion about judicial leadership and domestic violence
- II. Purpose and structure of domestic violence coalitions in Iowa
 - A. History of coalitions in Iowa
 - B. "Special Concerns Involving Judicial Participation in Domestic Violence Coalitions"
 - C. The role of judges in coalitions
- III. Mechanics of a successful coalition, examples from Scott County
- IV. Expectations of a leadership role
 - A. Minimal expectations
 - B. Expanding beyond minimal expectations
- V. Identification and evaluation of agenda for the courts
 - A. Increase pro bono representation?
 - B. Focus on criminal application of the law?

Lunch will be served at 12:00 p.m. and will cost \$5.00. During lunch we will view videos produced by the Scott Co. Coalition and by the Iowa Medical Society.

Appendix D

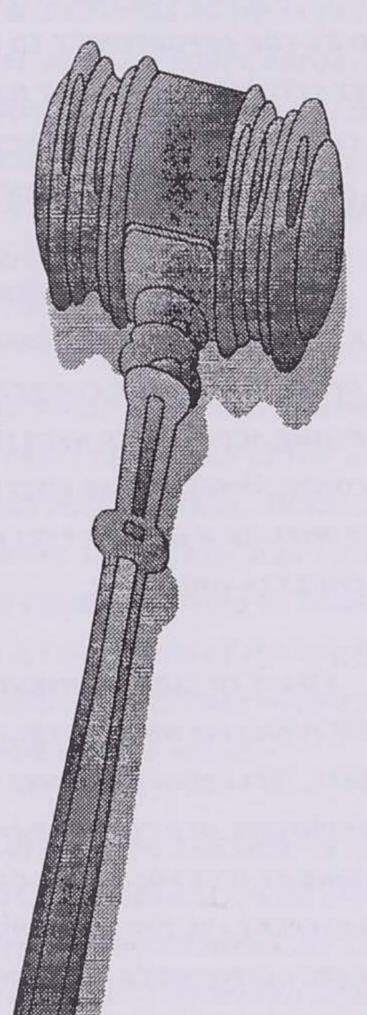
Examples of Judicial Leadership

THE STATE OF THE IOWA JUDICIARY

Message by

THE HONORABLE ARTHUR A. McGIVERIN
CHIEF JUSTICE
OF THE SUPREME COURT OF IOWA

DELIVERED BEFORE
A JOINT CONVENTION OF
THE SEVENTY-SIXTH GENERAL ASSEMBLY
JANUARY 10, 1995
(NOT FOR RELEASE BEFORE 1:15 P.M.,
TUESDAY, JANUARY 10, 1995)



MR. PRESIDENT, MR. SPEAKER, GOVERNOR, MEMBERS OF THE GENERAL ASSEMBLY, STATE OFFICIALS, JUDICIAL COLLEAGUES, AND FRIENDS:

THANK YOU FOR THE INVITATION TO SPEAK HERE TODAY. WE ARE HON-ORED BY THE OPPORTUNITY TO VISIT WITH YOU EACH YEAR ABOUT IOWA'S COURT SYSTEM. THIS REPORT HAS BECOME A TRADITION AND IS A SIGN OF THE COOPERATION AND RESPECT BETWEEN IOWA'S LEGISLATIVE AND JUDICIAL BRANCHES OF GOVERNMENT.

ON BEHALF OF THE SUPREME COURT, I WANT TO EXTEND A WARM WELCOME TO THE NEW LEGISLATORS. IF ANY OF YOU ARE NOT FAMILIAR WITH
THE OPERATION OF THE COURT SYSTEM, I HOPE YOU WILL TAKE SOME TIME
TO BECOME ACQUAINTED WITH IT. THE BEST PLACE TO START IS IN YOUR LOCAL COMMUNITIES. PLEASE VISIT YOUR LOCAL COURTHOUSE. OUR JUDGES AND
STAFF WILL BE HAPPY TO FULLY ACQUAINT YOU WITH THE OPERATION OF
THE COURT IN YOUR AREA.

I WANT TO TAKE A MOMENT TO ACKNOWLEDGE SOME OF THE MEMBERS OF THE JUDICIARY WHO ARE PRESENT. WE HAVE WITH US THE IOWA COURT OF APPEALS, INCLUDING ITS NEWEST MEMBERS, JUDGE MARK CADY AND JUDGE TERRY HUITINK. OUR COURT OF APPEALS CONTINUES TO PLAY A CRUCIAL ROLE, DECIDING A LARGE VOLUME OF CASES EACH YEAR. WE AGAIN COMMEND THEM. ALSO PRESENT ARE THE CHIEF JUDGES OF IOWA'S EIGHT JUDICIAL DISTRICTS. THEY ARE RESPONSIBLE FOR SUPERVISING THE JUDGES AND COURT EMPLOYEES WITHIN EACH DISTRICT. IN ADDITION TO THEIR LEADERSHIP ROLE, THEY ALSO DEAL WITH A STAGGERING INDIVIDUAL CASELOAD.

ALTHOUGH THE MAIN FOCUS OF THESE REMARKS WILL BE THE CONDI-TION OF THE JUDICIARY'S PRIMARY FUNCTION -- DECIDING CASES, I WOULD LIKE TO FIRST MENTION THE PROGRESS WE HAVE MADE ON SOME OTHER IM-PORTANT ISSUES OVER THIS PAST YEAR. FOUR YEARS AGO, WITH FUNDS YOU APPROPRIATED, THE SUPREME COURT ESTABLISHED THE EQUALITY IN THE COURTS TASK FORCE, CHAIRED BY CHIEF JUDGE JAMES HAVERCAMP. ITS PURPOSE WAS TO INVESTIGATE ANY RACE AND GENDER BIAS IN THE COURT SYSTEM. IN 1992, THE TASK FORCE REPORTED ITS FINDINGS, AND OFFERED RECOMMENDATIONS OF WAYS TO HELP ELIMINATE BIAS WHICH MAY DEMEAN COURT PARTICIPANTS OR POSE A THREAT TO EQUAL TREATMENT. OUR COURT HAS EXHAUSTIVELY CONSIDERED EACH RECOMMENDATION OF THE TASK FORCE AND TAKEN APPROPRIATE ACTION. ATTACHED TO MY MESSAGE IS A BRIEF SUMMARY OF THOSE EFFORTS.

WE HAVE ALSO UNDERTAKEN A DETAILED STUDY OF DOMESTIC ABUSE IN IOWA. BECAUSE OUR TRADITIONAL LEGAL PROCEDURES ARE OFTEN NOT DESIGNED TO DEAL WITH THE SPECIAL PROBLEMS POSED BY THESE INSIDIOUS ACTS, WE ESTABLISHED A TASK FORCE TO EXPLORE THIS SUBJECT. IN DOING SO, WE SOLICITED OTHER GROUPS TO HELP THE COURTS RESPOND TO DOMESTIC VIOLENCE. OUR DOMESTIC ABUSE TASK FORCE, CO-CHAIRED BY JUDGE CADY AND LINDA MCGUIRE, HAS PREPARED A COMPREHENSIVE REPORT WITH RECOMMENDATIONS FOR IMPROVEMENTS IN A WIDE-RANGE OF AREAS.

THE REPORT SETS OUT WAYS IN WHICH GOVERNMENT AND SOCIETY CAN WORK TOGETHER TO RESPOND MORE EFFECTIVELY TO DOMESTIC VIOLENCE. WE HAVE BEGUN TO IMPLEMENT THOSE RECOMMENDATIONS WHICH CALL FOR COURT ACTION. THE REPORT ALSO CONTAINS A NUMBER OF PROPOSED LEGISLATIVE CHANGES WHICH WE ENCOURAGE YOU TO REVIEW. BECAUSE MANY OF THE PROPOSALS ARE OUTSIDE OUR AUTHORITY, WE FORWARD THEM TO YOU, CONFIDENT THAT YOU WILL TAKE APPROPRIATE ACTION.

THE COURTS CAN SET AN EXAMPLE FOR THE REST OF THE COMMUNITY
BY RECOGNIZING THE IMPORTANCE OF STOPPING DOMESTIC VIOLENCE. WE
CHALLENGE OTHERS TO JOIN US IN BRINGING AN END TO THIS SCOURGE.

ON ANOTHER MATTER, THE SUPREME COURT HAS RECENTLY INITIATED A LONG-RANGE STRATEGIC PLANNING PROCESS. THIS EFFORT WILL INCLUDE AN EXAMINATION OF SOCIAL, ECONOMIC, POLITICAL AND TECHNOLOGICAL TRENDS, AND AN ASSESSMENT OF CURRENT AND FUTURE ISSUES CONFRONTING THE COURTS. THIS EFFORT WILL PROVIDE US WITH A FOUNDATION FOR FACING UP TO THE DEMANDS OF THE FUTURE. AS THAT BASEBALL SAGE, YOGI BERRA, ONCE WISELY PUT IT, "YOU'VE GOT TO BE CAREFUL IF YOU DON'T KNOW WHERE YOU ARE GOING, BECAUSE YOU MIGHT NOT GET THERE!"

WE HAVE ATTEMPTED THROUGH THESE STUDIES BOTH TO ADDRESS ANY OF OUR SHORTCOMINGS AND TO PLAN FOR OUR FUTURE. ONLY WITH YOUR ASSISTANCE CAN WE OVERCOME OUR MOST IMMEDIATE PROBLEM -- MEETING THE PUBLIC'S EXPECTATIONS FOR JUSTICE WHEN THE HIGH DEMAND EXCEEDS OUR RESOURCES.

MORE THAN AT ANY TIME IN THE HISTORY OF OUR STATE, THE PEOPLE OF IOWA ARE TURNING TO THE COURTS FOR HELP. PEOPLE SUCH AS:

- -- THE PERMANENTLY INJURED TRUCK DRIVER SEEKING JUDICIAL REVIEW OF A WORKER'S COMPENSATION AWARD,
- -- THE DIVORCED PARENTS OF TWO LITTLE GIRLS FIGHTING OVER CUSTODY OF THE CHILDREN, AND
- -- THE SEVEN-YEAR-OLD GIRL WHO NEEDS PROTECTION FROM SEXUAL ABUSE BY HER MOTHER'S LIVE-IN BOYFRIEND.

THE NUMBER OF CASES COMING TO THE COURTS IS AT AN ALL-TIME HIGH.
THE SOARING CASELOAD IS ATTRIBUTABLE, IN PART, TO INCREASES IN THE MOST
DIFFICULT TYPES OF CASES: CRIMINAL, JUVENILE, AND DOMESTIC ABUSE. THESE
CASES, WHICH DEMAND OUR BEST AND MOST CAREFUL EFFORTS, CONSUME THE
GREATEST PART OF OUR COURT TIME. RATHER THAN RECITE STATISTICS NOW, I
HOPE YOU WILL REVIEW THE INFORMATION PROVIDED WITH THESE REMARKS.

CRIMINAL CASES HAVE ALL BUT HIJACKED THE COURTS' DOCKET. FILINGS IN MAJOR CRIMINAL CASES, WHICH HAVE SHOT UP 92% SINCE 1984, NOW OUTNUMBER CIVIL FILINGS AND THE GAP IS WIDENING. CONSTITUTIONAL AND STATUTORY SPEEDY TRIAL REQUIREMENTS GIVE CRIMINAL CASES PRIORITY TO THE TIME AVAILABLE TO THE COURTS. WITHOUT ADDITIONAL PERSONNEL, WE SOON MAY BE FACING UP TO THE PROSPECT OF DEVOTING ALL, OR NEARLY ALL, OF OUR JUDICIAL RESOURCES TO CRIMINAL CASES.

WE CAN ONLY SPECULATE ABOUT WHAT'S BEHIND THIS SHIFT. BUT AS YOU ALL KNOW, PEOPLE ARE FRUSTRATED WITH CRIME. VICTIMS JUSTLY DEMAND THEIR DAY IN COURT AND A FRIGHTENED PUBLIC CRIES OUT FOR SWIFT PUNISHMENT OF CRIMINALS.

IN RESPONSE TO THESE CALLS, MORE LAWS ARE PASSED AND LAW ENFORCE-MENT EFFORTS ARE EXPANDED. AS A RESULT, MORE AND MORE CASES POUR INTO THE COURT SYSTEM.

SOME OF OUR COURTS ARE SO BUSY WITH CRIMINAL CASES THAT THE WHEELS OF JUSTICE ARE SPINNING OUT OF CONTROL PLEASE LISTEN TO THIS DESCRIPTION OF ONE OF THE BUSIEST COURTS IN IOWA, "JAIL COURT" IN POLK COUNTY, EACH DAY IN A CROWDED ROOM IN THE POLK COUNTY JAIL ONE DISTRICT ASSOCIATE JUDGE PRESIDES OVER THE HEARINGS OF PEOPLE ARRESTED

AND DETAINED THE PREVIOUS NIGHT. THE LONG PROCESSION OF DEFENDANTS BEGINS EARLY IN THE MORNING AND LASTS ALL DAY. ON A TYPICAL DAY, THE JUDGE CONSIDERS THE CASES OF NINETY PRISONERS. THERE IS NOT THE LUXURY OF TAKING TIME TO MAKE A DECISION BASED UPON A THOROUGH INVESTIGATION. PEOPLE MUST BE RUSHED THROUGH TO MAKE ROOM IN THE JAIL FOR THE NEXT NIGHT AND ALSO TO MEET CONSTITUTIONAL REQUIREMENTS. IN THIS ENVIRONMENT THERE'S A TENDENCY FOR CORNERS TO BE CUT AND DEALS TO BE MADE. DECISIONS MUST BE QUICKLY RENDERED.

SWIFT COURT ACTION IS ONE OF THE MOST EFFECTIVE DETERRENTS TO CRIME. BUT AS SOMEONE ONCE SAID, "JUSTICE DELAYED IS JUSTICE DENIED. BUT JUSTICE RUSHED IS JUST AS BAD." WHEN WE ARE FORCED, BECAUSE OF LIMITED RESOURCES, TO PUSH CASES THROUGH THE SYSTEM TOO QUICKLY, THE FASTEST DISPOSITION METHOD IS PLEABARGAINING, WHICH AS YOU KNOW RESULTS SOMETIMES IN POOR RESULTS. WE WOULD PREFER A CLIMATE THAT DISCOURAGES DEAL MAKING AND RETURN TO A PROCESS BY WHICH OUTCOMES ARE NOT DRIVEN BY AN OVERLY CROWDED COURT DOCKET.

THE GROWING NUMBER OF CHILDREN WITH SERIOUS LEGAL NEEDS IS OVERWHELMING OUR JUVENILE COURTS. THIS YEAR ESPECIALLY THERE HAVE BEEN MANY DISTURBING REPORTS OF VIOLENT CRIMES COMMITTED BY JUVENILES, WHILE PUBLIC ATTENTION HAS BEEN FOCUSED ON VIOLENT JUVENILES, LET'S NOT FORGET THE THOUSANDS OF CHILDREN IN THE COURT SYSTEM WHO ARE THEMSELVES VICTIMS OF VIOLENCE, ABUSE AND NEGLECT. OFTEN TIMES, THESE CHILDREN DEPEND ON THE COURTS TO HELP PUT THE PIECES OF THEIR LIVES BACK TOGETHER.

DOMESTIC VIOLENCE CASES ARE INCREASING FASTER THAN ALL OTHERS.
THE NUMBER OF REPORTED DOMESTIC ABUSE CASES HAS SOARED SINCE THE
CREATION OF LAWS WHICH MAKE IT EASIER FOR SURVIVORS OF DOMESTIC VIOLENCE TO GET PROTECTION FROM THE COURTS. EVEN THOUGH WE HAVE MADE
THESE CASES A PRIORITY, WE ARE NOT EQUIPPED TO PROVIDE EACH VICTIM SEEKING EMERGENCY PROTECTIVE ORDERS WITH THE IMMEDIATE ATTENTION THEY
DESERVE. MOST OF THE RURAL COUNTIES IN IOWA ONLY HAVE A DISTRICT COURT
JUDGE AVAILABLE ONCE EVERY TWO WEEKS.

THE BUSIER COURTS HAVE DEDICATED SPECIFIC DAYS OR TIMES FOR DOMESTIC ABUSE HEARINGS. FOR INSTANCE, IN SCOTT COUNTY, THE ASSIGNMENT
JUDGE SPENDS TWO OR MORE HOURS A DAY REVIEWING INITIAL REQUESTS FOR
PROTECTIVE ORDERS. EACH FRIDAY AFTERNOON IS RESERVED FOR HEARINGS FOR
PERMANENT PROTECTIVE ORDERS. DURING THAT TIME, MOST OF THE DISTRICT
COURT JUDGES ARE BUSY HEARING THE CASES OF PEOPLE, USUALLY WOMEN,
ABUSED BY THEIR COMPANIONS. WOMEN -- SUCH AS THE MOTHER OF THREE
YOUNG CHILDREN WHOSE LIVE-IN BOYFRIEND THREATENED TO SHOOT HER AND
HER CHILDREN. HER HASTILY SCRIBBLED PETITION INCLUDED THE PLEA, "PLEASE
JUDGE, HELP ME." SHE WAS ONE OF THE DOZENS OF VICTIMS WAITING IN LINE TO
GET A PROTECTIVE ORDER FROM THE COURT THAT DAY.

ON ONE FRIDAY AFTERNOON LAST MONTH, FIVE OF THE SIX DISTRICT COURT JUDGES IN THE SAME COUNTY WERE ASSIGNED TO HEAR THIRTY-TWO CASES. EACH WAS ENORMOUSLY IMPORTANT AND EACH HELD THE POTENTIAL TO CONSUME SEVERAL HOURS OF COURT TIME.

CRIMINAL, JUVENILE, AND DOMESTIC ABUSE CASES RECEIVE PRIORITY
STATUS. NOT ALL CASES CAN BE A PRIORITY. CONSEQUENTLY, MANY PEOPLE WITH
OTHER KINDS OF SERIOUS PROBLEMS MUST WAIT FOR THEIR DAY IN COURT.

LAST MARCH I RECEIVED A LETTER FROM AN IOWA CITY ATTORNEY WHO WAS REPRESENTING A MOTHER OF TWO YOUNG CHILDREN IN AN ACTION FOR DISSOLUTION OF MARRIAGE. THE CASE HAD BEEN PENDING FOR SOME TIME. THE LAWYER WROTE, "FOR THE SECOND TIME IN THE LAST THREE MONTHS, I HAVE HAD THE DECIDEDLY UNPLEASANT TASK OF HAVING TO TELL [MY CLIENT] THAT THE TRIAL OF HER DISSOLUTION CASE COULD NOT GO FORWARD." AT THE TIME OF THE LETTER, THE CASE HAD JUST BEEN "BUMPED" AGAIN FROM THE TRIAL SCHEDULE BECAUSE OF OTHER PRIORITY MATTERS THAT HAD TO BE HEARD BY THE COURT.

I WISH I COULD SAY THAT THIS MOTHER'S DIFFICULTY IN GETTING A TRIAL IS UNUSUAL - BUT I CANNOT. THE NUMBER OF CRIMINAL AND DOMESTIC ABUSE CASES HAVE THE DISTRICT COURT CALENDAR SO OVERWHELMED THAT EVERYTHING ELSE IS BEING SET FOR HEARING FURTHER AND FURTHER IN THE FUTURE.

I SUGGEST THAT THE LENGTH OF TIME IT TAKES FOR CIVIL CASES TO GET THROUGH THE SYSTEM MAY DISCOURAGE PEOPLE FROM USING THE COURTS TO RESOLVE THEIR DISPUTES AND FORCE THEM TO ACCEPT RESULTS OR SETTLE-MENTS THEY OTHERWISE WOULD NOT ACCEPT IF THEY COULD GET A REASONABLY PROMPT HEARING.

YOU MAY BE WONDERING HOW WE ARE KEEPING UP TO THE EXTENT THAT
WE ARE. OUR JUDGES AND STAFF ARE MOVING MORE CASES FASTER THAN EVER.
ON THE AVERAGE, TODAY'S DISTRICT COURT JUDGE DISPOSES OF 36 PERCENT
MORE CASES THAN IN 1984. AT THE SAME TIME, THE NUMBER OF DISPOSITIONS
PER DISTRICT ASSOCIATE JUDGE MUSHROOMED 86 PERCENT. PARENTHETICALLY,
THE NUMBER OF MATTERS HEARD BY EACH PART-TIME MAGISTRATE JUMPED 47
PERCENT.

THE MAJOR INCREASES IN THE BUSINESS OF THE COURTS HAVE HAD A DRAMATIC IMPACT ON THE AMOUNT OF TIME ALLOTTED TO EACH CASE. EFFICIENCY MEASURES AND AGGRESSIVE CASE MANAGEMENT CAN ONLY GO SO FAR, BECAUSE EVEN THE MOST PRODUCTIVE JUDGE CAN ONLY CAREFULLY DECIDE SO MANY CASES EACH DAY, THERE COMES A POINT WHERE EITHER QUALITY IS DIMINISHED OR PRODUCTIVITY DROPS.

A MORE IMPORTANT CONCERN, IN ADDITION TO THE NUMBERS OF CASES FLOWING THROUGH THE SYSTEM, IS THE QUALITY OF SERVICE. UNDER THE CIRCUMSTANCES, YOU NEED TO ASK IF YOUR CONSTITUENTS ARE GETTING THE JUSTICE SYSTEM THEY NEED, THE JUSTICE SYSTEM THEY EXPECT, THE JUSTICE SYSTEM THEY DESERVE. I WOULD SUGGEST THAT OUR JUDGES PRESENTLY MUST TAKE AN APPROACH ANALOGOUS TO A COMBAT SURGEON, WHOSE MAIN ROLE IS TO ADDRESS LIFE THREATENING ISSUES AS QUICKLY AS POSSIBLE WITHOUT TIME FOR CONCERN ABOUT SCARS OR THE EMOTIONAL TRAUMA OF THE WOUNDED.

THE PEOPLE OF IOWA DESERVE BETTER.

TO PROVIDE THE HIGHEST QUALITY OF JUSTICE WE NEED MORE RE-SOURCES. TO BE MORE SPECIFIC WE NEED:

- -- MORE DISTRICT COURT JUDGES;
- -- MORE DISTRICT ASSOCIATE JUDGES;
- -- MORE JUVENILE COURT OFFICERS; AND
- -- MORE HELP IN THE CLERK OF COURT OFFICES TO HANDLE THE PAPERWORK.

THE DETAILS OF OUR SPECIFIC NEEDS AND RECOMMENDATIONS ARE CON-TAINED IN OUR BUDGET REQUEST WHICH WE HAVE SUBMITTED TO YOU.

WE SERVE THE SAME CONSTITUENTS YOU DO. ON THEIR BEHALF WE RE-SPECTFULLY ASK THAT YOU PROVIDE THE RESOURCES FOR THE COURT SYSTEM TO KEEP UP WITH THE TIMES AND THE RISING CASELOAD.

MORE RESOURCES WILL ALLOW US TO BRIDGE THE EVER EXPANDING GULF
BETWEEN THE REALITY OF OUR PRESENT JUSTICE SYSTEM AND THE PROMISES
OF JUSTICE. LET'S WORK TOGETHER TO TURN THE PROMISE INTO REALITY.

RECOMMENDATIONS FOR RESOURCES

IOWA JUDICIAL BRANCH

FY '96

The Iowa courts are being stressed by a rising case load which has far out paced available resources. To meet the unprecedented demand, the Iowa Supreme Court recommends the following improvements for fiscal year 1996.

INCREASED COSTS OF OPERATIONS

Salary annualization (the future cost of providing salary increases awarded in the current fiscal year) is approximately 1.5 Million Dollars. Postage is another significant built-in operating cost for the Judicial Department. Much of the Department's mail is attributable to statutory notices which must be provided to litigants and other court users. This year the postal service increased its postage rates approximately 10%. Consequently, the Department's postage cost, which amount to over a million dollars a year, will increase by more than \$100,000.

DISTRICT COURT JUDGES

Since 1984, the number of civil and criminal filings (906 to 1432) per distinct court judge have shot up 58% which the number of district court judges increased only 2% (99 to 101). On the average, today's district court judge disposes of 37% more civil and criminal cases than in 1984. At some point, either productivity or quality will drop.

According to the statutory judgeship formula, section 602,6201(10), Iowa needs 24 more district court judges for a total of 125. Based upon an assessment of the situation in each judicial district, the Iowa Supreme Court recommends the addition of 17 more district court judges and support staff to take the strain off the court system. The court recommends one additional judge each for districts 1B, 2B, 3B, 4 and 8A; two additional judgeships for districts 5A, 6 and 7; and six additional judgeships for district 5C.

The total cost of this recommendation is \$2,827,826 for 17 district court judges, 17 court reporters, and 12.75 court attendants. The package also includes two more law clerks and one case coordinator for district 5.

DISTRICT ASSOCIATE JUDGES

Criminal cases are flooding into the courts. A critical situation exists in Polk County which has the highest case load in the state. The district associate judges in Polk County are so busy with criminal proceedings and small claims cases that they do not routinely handle other types of cases within their jurisdiction. Consequently, the other cases are assigned to the district court judges, adding to their work load. As a result of the situation in Polk County, it is necessary to use three judges from other counties to assist.

To address the problem, the Supreme Court recommends 3 more district associate judges. This package, which includes the cost of judges, court reporters and court attendants, amounts to \$441,619.

JUVENILE COURT SERVICES

Juvenile court officers assist the court in working with young people who find themselves involved with the judicial system. They assist the court by investigating cases, locating treatment and services, reporting their findings to the court, and keeping track of the children who are under the supervision of the court. Sadly, more and more children are entering the court system as victims of abuse and neglect, or as delinquents. Because of these increases, juvenile court officers have less and less time to spend on each child's case.

The court recommends the addition of seven FTE's (one each for districts 1, 2, 3, 5, 6 and 8; and an additional .5 for districts 5 and 7. This recommendation, which also includes other juvenile court personnel, amounts to \$367,496.

CLERK OF COURT STAFF

The clerk of district court offices play an important role in the court system. In addition to their record keeping and accounting responsibilities, the clerks of court handle the bulk of scheduled violations.

The clerks offices also have significant responsibilities in processing small claims matters and petitions for domestic abuse. The increases in the case load have a direct effect on the operation for the clerks' offices.

The Supreme Court recommends 13.64 new FTE's to be allocated as follows: 1 each for Story, Marshall, Pottawattamie, Warren and Clinton Counties, .7 for Delaware; .79 for Hamilton; 4.7 for Polk; .5 for Dallas; and 1.45 for Scott. The cost of this package is \$331,698.

RECORDS MANAGEMENT

State laws, court rules, and good records management practices require that most court records be maintained for years. Reproduction of files by microfilm and other methods is essential if we are going to keep the courthouses from being buried under a mountain of paper. The court recommends more resources for microfilm equipment and for contractual services. This program costs \$273,702.

AUTOMATION

Modern technology provides an effective means for stretching our resources and improving the court system. The Judicial Department's statewide computer system allows it to keep a vast amount of information at the touch of a finger. Many state agencies, which depend upon information stored with the court, benefit from this system. The Judicial Department is in the process of adding 12 more clerk of court offices to its statewide computer system for a total of 40 courthouses.

For the next fiscal year, the court recommends the addition of a system administrator to serve districts 2 and 3; two personal computer support and training persons; systems for 15 more clerk of court offices; application enhancements; development of software for a jury management and an appellate management system; and additional terminals, printers and disks. The cost of this package is \$3,149,553.

FURNITURE AND EQUIPMENT REPLACEMENTS

The operation of the Judicial Branch depends on essential equipment such as copy machines, calculators, dictating equipment and file cabinets. The department requests \$465,861 for replacement items.

COURT OF APPEALS

In 1993, the six member Court of Appeals disposed of 660 cases -- 504 civil and 156 criminal. The Supreme Court recommends an additional legal assistant to help the Court of Appeals process cases. The cost of this request is \$34,618.

DISTRICT ASSOCIATE JUDGE CONVERSIONS

The significant growth in the criminal and juvenile case load has created a need for more district associate judges. Iowa Code section 602.6302 provides a procedure with which three part-time magistrate positions can be converted into a district associate judgeship. The court recommends the addition of five district associate judge positions in lieu of 15 part-time magistrates: one conversion each in districts 1, 4 and 5; and two conversions in district 2. The cost of this recommendation which includes one court reporter and .75 court attendant for each district associate judge is \$409,261.

DISTRICT COURT ADMINISTRATION

As the demand for court services increases so does the need for support staff. The court recommends the addition of one court attendant for district 3; .6 court attendant, a financial aide officer, and a case coordinator for district 5. The total recommendation amounts to \$91,066.

COURT-APPOINTED SPECIAL ADVOCATE (CASA)

The CASA program provides some children involved in juvenile court proceedings with special attention. A CASA is a volunteer who becomes a trained advocate for an abused or neglected child. A CASA can furnish the court with extra insight about a child's situation. This program operates in four judicial districts. The court recommends \$43,336 to hire an additional part-time coordinator to serve Clinton and Muscatine Counties, and a .5 coordinator to start the program in Dubuque County.

SUPREME COURT TASK FORCE ON COURTS' AND COMMUNITIES'

RESPONSE TO DOMESTIC ABUSE

In August, 1994, the Supreme Court Task Force on Courts' and Communities' Response to Domestic Abuse submitted its final report to the Iowa Supreme Court. The report sets out ways in which government and society can work together to respond more effectively to domestic violence. The Court has begun to implement those recommendations which call for court action. Among other things, the Judicial Department continues to provide education for judges and staff on the dynamics of domestic abuse, the department is in the process of providing a fax machine to every clerk of court office to assist with processing domestic abuse orders, and a domestic abuse state coordinator position is being added to the State Court Administrator's office to assist the courts with implementation of many of the task force recommendations.

LEGISLATIVE PROPOSALS

The report contains a number of proposed legislative changes which do not involve court administration and are solely within the prerogative of the legislature. Because the following proposals for legislation do not directly concern the operation of the court system, they are forwarded to the legislature for appropriate action.

- -- Fine-tune the current training requirements for law enforcement agencies by requiring that a minimum of 12 hours be spent on domestic abuse dynamics and law for new officers, and that an additional four hours per year be required as in-service training for all officers. (Recommendation No. 11, page 33 of the task force report).
- -- Clarify police duties in situations where both parties accuse the other of assaultive behavior. (Recommendation No. 13, page 33).
- -- Adopt legislation which explicitly requires law enforcement to seize all weapons that are alleged to have been involved or threatened to be used in the commission of domestic violence, and authorizes law enforcement to seize a weapon that is in plain view of the officer or was discovered pursuant to a search authorized by a person entitled to consent to the search. (Recommendation No. 14, page 33).
- -- Require that county attorneys develop written policies to be followed by attorneys who prosecute domestic abuse assault cases. (Recommendation No. 19, page 41).
- --Remove simple misdemeanor domestic abuse assaults from Iowa Code section 331.756(4), which permits county attorneys to decline to prosecute misdemeanors when "otherwise engaged in the performance of their official duties." (Recommendation No. 21, page 42).
- -- Amend Iowa Code section 22.7(5) to allow facilitators of Batterers' Education Programs to receive police reports without waiving the confidentiality of the documents as to other requestors. (Recommendation No. 27, page 46).
- -- Consider and adopt whatever solutions will best strengthen the court's ability to enforce tis protective orders, including, but not limited to: (1) create a simple misdemeanor offense for violations of Chapter 236 orders, which would be in addition to the contempt powers of the court; (2) create statutory authority to award successful plaintiffs' attorneys fees in contempt actions; and (3) increase court-ordered and publicly paid attorneys for plaintiffs in contempt actions. (Recommendation No. 42, page 66).

NOTE: The task force recommended the Iowa State Bar Association and the Supreme Court consider and adopt solutions to increase private/public sector volunteer lawyers to assist pro se petitioners. The Iowa Supreme Court has been in continuing communication with the Iowa State Bar Association to encourage more attorneys to take domestic abuse cases.

- -- Amend sections 236.5 and 236.8 to allow successful plaintiffs to recover attorney fees, in the discretion of the trial court. (Recommendation No. 50, page 82).
- -- Revise sections 236.10 to provide that domestic abuse files be sealed only upon the application of the petitioner. (Recommendation No. 51, page 82).
- -- Create a separate chapter to address the incidence of dating violence. (Recommendation No. 52, page 82).

- -- Expand the definition of domestic abuse to encompass juveniles under 18 who are married, living together, or have children in common. (Recommendation No. 53, page 83).
- -- Amend Chapter 236 to allow a parent, guardian or representative of a juvenile not emancipated through marriage, to file a petition on behalf of a child against a family or household member who commits an act of domestic violence. (Recommendation No. 54, page 83).
- -- Amend Chapters 598, 232, and 236 to create (1) a rebuttable presumption in a custody dispute if the court determines domestic abuse, child abuse, or child sexual abuse has occurred; (2) additional factors the court must consider in a custody proceeding in which a finding of domestic violence has been made; and (3) specialized visitation centers for victims of domestic abuse. (Recommendation No. 59, page 96).

RESOURCES

The task force recognized that adequate resources are critical if the criminal justice system is to respond effectively to domestic violence. In its budget request for fiscal year 1996, the Supreme Court requested more resources, including more judges and clerk of court staff, which would help handle the increasing domestic abuse case load. Further, the court supports more resources for allied agencies because in the long run it benefits the process for the court system.

COURT ADMINISTRATION

The task force report includes four legislative proposals which directly, or potentially, involve court administration. The court has carefully reviewed these proposals and offers the following comments.

- -- The task force recommends the creation of a statewide system to allow enforcement agencies to receive accurate and timely information concerning criminal no-contact orders and civil protective orders issued in other counties. The Iowa Supreme Court is working with the Department of Public Safety to explore the possibility of using the state's law enforcement communication network, known as the Iowa On-line Warrants and Articles (Iowa) system, to track protective orders. The Judicial Department will also look into the availability of funds through the Federal Crime Act for the establishment of such a system.
- -- The task force recommended legislation that would allow for the registration and enforcement of foreign orders for protection. (Recommendation No. 41, page 63). The Supreme Court supports this proposal and advises that the legislature adopt a provision similar to section 314 of the Model Code on Domestic and Family Violence.
- -- The task force further provided that a surcharge on all marriage licenses be used to provide representation to victims of domestic abuse seeking a protection order in a contempt case. (Recommendation No. 44, page 76). Marriage license fees were increased in 1990 to raise additional revenue. Although the increase was not earmarked, a portion of the new revenue was appropriated for the use of domestic abuse programs. The Supreme Court wholeheartedly supports more legal representation for victims of domestic abuse and suggest new revenue sources be channeled to appropriate applications which would best serve the needs for legal representation as recommend by the task force.
- -- The task force recommended that the code be amended to allow chief judges to designate district associate judges and law-trained magistrates to sign temporary protection orders only when a district court judge is unavailable in person, by telephone, or by fax machine. (Recommendation No. 46, page 81). The Supreme Court, in consultation with the Judicial Council and representatives of the Magistrates Association, recommends that the jurisdiction of district associate judges be expanded to allow them to sign temporary protection orders. The court further advises that this authority should not be tied to designation by the Chief Judge or availability of a district court judge. The court decided not to include lawyer-magistrates as part of the proposal because of the burden caused by additional responsibilities given to magistrates in recent years. This amendment is part of the Judicial Department's request for prefiled legislation.

REPORT

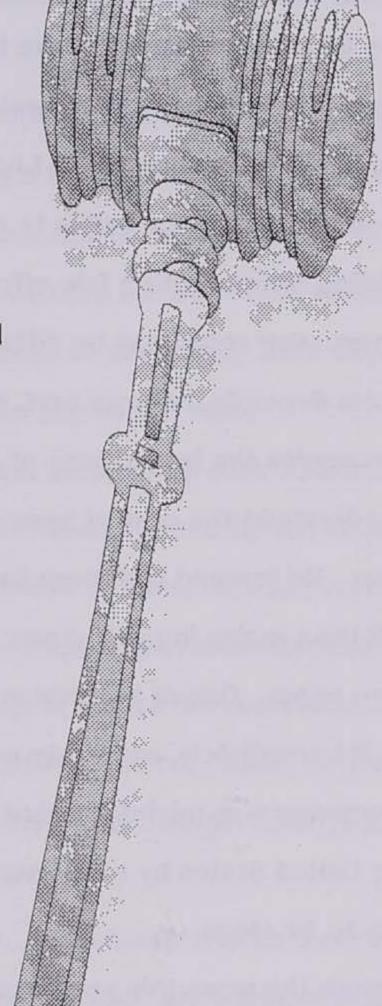
A copy of the task force report can be obtained from the Iowa Supreme Court.

THE STATE OF THE IOWA JUDICIARY

Message by

THE HONORABLE ARTHUR A. McGIVERIN
CHIEF JUSTICE
OF THE SUPREME COURT OF IOWA

DELIVERED BEFORE
A JOINT CONVENTION OF
THE SEVENTY-SIXTH GENERAL ASSEMBLY
JANUARY 10, 1996
(NOT FOR RELEASE BEFORE 9:45 A.M.,
WEDNESDAY, JANUARY 10, 1996)



STATE OF THE JUDICIARY

JANUARY 10, 1996

Mr. President, Mr. Speaker, Governor, members of the General Assembly, state officials, judicial colleagues, and friends:

Thank you for the kind invitation to appear before you today.

It's a privilege to visit with you each year about the condition of lowa's courts. This address is an opportunity for me to review with you the significant activities of our courts, to evaluate whether we're meeting our citizens' needs for justice, and to recommend improvements as necessary. I hope this review helps you with some of the tough decisions you'll face in the months to come.

Providing lowans with a fair, effective and efficient court system is a mission we share with you. Our roles may be different, but our goals are not. The strength of lowa's justice system depends, in large part, on the strength of our partnership. And we, in the judiciary, recognize the importance of communication in maintaining a good partnership.

We understand the cost of poor communication, as did former FBI director, J. Edgar Hoover. He learned that even the simplest message, when not clearly communicated, can have a major impact. Years ago in an effort to cut costs, the FBI reduced the size of memo paper. One of the new memo sheets ended up on J. Edgar Hoover's desk. He disliked it immediately and wrote on the narrow margin, "watch the borders."

His message was misinterpreted. For the next six weeks, it was extremely difficult to enter the United States by road from either Mexico or Canada!

I'll try to be clear.

Although the news this year is not uniformly good, I hope you will conclude, as I have, that much of it is encouraging.

First, I'd like to focus on some of our achievements. It is always a pleasure to report on progress.

We're certainly encouraged by progress in the collection of fines and fees, a matter in which we all are vitally interested. I'd like to tell you in some detail what we're doing.

Everyone is offended when some scofflaws are allowed to accumulate substantial unpaid fines.

Respect for court orders is on the line. Inconsistent enforcement of court orders calls into question the authority and effectiveness of the courts. A fine is a sentence. Its enforcement should be pursued diligently—as diligently as an enforcement of a jail sentence. The greatest impact on fine enforcement is made at the "front-end" of the process—the time when a sentence is imposed.

We have set in motion a host of changes to improve the fine collection record of the courts. Many magistrates and judges are taking a tougher attitude. For example, in Linn County, Magistrate Pamela Lewis tells defendants appearing before her that they are expected to pay their fine that day. And she goes one step further. With the aid of a computer linked to the clerk of court office, she checks to see if they have unpaid fines from previous sentences. If they do, they are told to pay those, also.

Across the state, all of our judicial districts have stepped up their fine and collection programs. Many judges are following the methods successfully used by the district associate judges in Scott County. In that program, the payment of fines, fees and restitution is made a condition of unsupervised probation in serious and aggravated misdemeanor cases. At sentencing, defendants are told that they must appear before the court on a date set in the future. The purpose of the court date is to determine if the conditions of probation have been met. Willful failure to comply with the terms of the unsupervised probation can result in a finding of contempt of court and jail time.

A special team effort is in place in Sac County. Magistrates Warren Bush and Joseph Heidenreich and the clerk of court, Mary Jo Herrig, and her staff are working together to collect unpaid fines. Defendants are sent a notice reminding them of their unpaid fines and fees. They are also informed that if the amount is not paid by a certain date they must appear for a contempt of court hearing. Due to this extra effort, the Sac County court has

collected over \$22,000 in three months.

We've also achieved remarkable success with the aid of our computer system in the counties that have it.

We've collected over one million dollars from income tax refund offsets since 1994. Our computer system helped make this possible. It allows us to electronically send to the Department of Revenue and Finance lists of people who have unpaid fines. As we expand our computer system into more counties, the scope of this program will increase.

This year we start using the central collection unit of the Department of Revenue and Finance to collect unpaid fines. Our computer system is crucial to this operation. When fines are not paid for sixty days, we'll send the information to the central collection unit by computer. The central collection unit will then work on the case. They'll make phone calls, send notices, and take any further action necessary to enforce payment.

In fiscal year 1995, our courts collected over \$54 million. Currently our receipts are up 6% over last year. At this rate, there will be some enhanced court collection funds available to use for expanding our computer system. Expanding our computer system is one of our budget recommendations for you. However, we plan to apply most of the enhanced court collection funds to offset our budget request for the computer system. We'll work with you on the details.

We're proud of the extra efforts our judges and staff are making to enforce fines. However, it's not our intent to force people to pay fines in cases of poverty. But we have no intention of taking second place in a line of consumer choices. There is a difference between poverty and simply preferring to pay for cable T.V. Those who are convicted of committing crimes must expect to make some sacrifices as a consequence. This is what fines are all about.

We have other examples of our commitment to effective fine enforcement. However, now it's time for a dose of reality so the visions of dollar signs don't cloud our collective good judgment. The types of procedures I mentioned earlier add to the already heavy workload of our courts. They take time away from other priorities. Furthermore, it would

not be cost effective to spend our valuable resources on cases in which the cost of collecting a fine far exceeds the fine itself. And finally, there are some people who, no matter what steps are taken, just cannot be made to pay off their debt. I'm talking about transients; people who, for whatever reasons, don't have any money; and people serving time in prison. For all these reasons, we must not view the annual tally of unpaid fines and fees as an unlimited vein of revenue just waiting to be mined.

There is another area in which we've also made positive strides. I'm pleased to report our progress in responding to the recommendations of our Domestic Abuse Task Force.

Under the leadership of many judges, and with the help of Jennifer Juhler, our domestic abuse intervention coordinator, local community domestic abuse coalitions have been created around the state. The purpose of the coalitions is to promote a community response to the problem of domestic abuse. We have also sponsored domestic abuse round table discussions in all of our judicial districts. We've been working closely with the Department of Public Safety to create a statewide domestic abuse registry. The registry will provide law enforcement officers around the state with the most current information on protective orders.

We're making other substantial advances with the help of technology.

Our court computer system, the Iowa Court Information System or ICIS, is making us more efficient and effective. It also serves the needs of and assists other government departments. For example:

- We're sending criminal disposition data to the Department of Public Safety and the
 Department of Corrections through our network.
- In a few months, we'll be linked by computer with the Department of Transportation so it can get traffic and criminal case information from the courts electronically.
- And we've developed a new program to assist county treasurers to stop the renewal of vehicle registration of persons who have unpaid fines.

Technology also can help relieve the record storage problems of county courthouses.

Most of Iowa's courthouses are bursting at the seams with old records. Records are stacked

from floor to ceiling, piled in attics and basements, and crammed in garages and storage buildings. Counties are simply running out of space. Records stored in poor conditions are deteriorating quickly. Imaging technology may be one solution to this problem. We decided to find out.

Last March, the Sac County clerk's office, with the help of many volunteers, started "purging" court files. Purging means removing from a file, and destroying, records which have no legal value. Once this was finished, the files were ready to be reproduced. A document imaging company was hired to reproduce the records. Each document was placed, one at a time, through a scanner. An exact reproduction was automatically stored on a compact disc. The discs look like those sold in music stores. The results of this six-month project are astonishing! Fifty years of court records that filled 65 file drawers are now stored on 11 four-inch C.D.s.

Technology can also help us manage the flood of criminal cases. Often in some of our high-volume courts, the system is so clogged that judges have little choice but to make decisions about criminal defendants based upon incomplete information. Polk County district associate court is developing an automated case management system to solve this problem. This system will serve as a prototype for courts around the state. This system will link, by computer, judges, the county attorney's office, the jail, the public defender's office, the department of correctional services, and the clerk's office. Once this is ready, everyone on the network will have instant access to information about criminal defendants. That's the way it ought to be.

I wholeheartedly support further use of technology! My technology of comfort is a sharp, number two, Ticonderoga pencil. It's user-friendly, low maintenance, and it's not smarter than I am. But times are changing and we all must change with it.

I'm delighted to note that a majority of lowans favor the use of technology in the courts. In response to a new survey conducted for our Commission on Planning for the 21st Century, a majority polled thought that increasing the use of computer and communications technology in court operations is a good idea.

Today, we've set up a court technology exhibit in the hall outside our courtroom downstairs to showcase some of our innovative programs. Please come down after these remarks, join us for coffee, and look through our display.

We're making significant progress in the area of planning for the future. As that wise baseball sage, Yogi Berra, pointed out, "The future isn't what it used to be."

We are eagerly awaiting the report of our Planning Commission, which is chaired by Justice Linda Neuman. Never before have the lowa courts conducted a comprehensive, long-range planning effort of this magnitude. Since last May, 60 hardworking lowans from all walks of life have devoted substantial time to this project. They have been closely examining our court system and studying changes which will help us meet the needs of lowans in the 21st Century. Thank you in advance for the financial support your leadership has pledged for this study.

The Planning Commission is scheduled to complete its work and report to the Supreme Court by June. A year from now, we hope to provide you with a full complement of
legislative proposals which will help prepare our courts for the future. I am confident that
together we can shape a justice system that will continue, even in the face of tremendous
changes in society, to administer the highest levels of justice.

Now, I'd like to journey back a bit.

Last year in my State of the Judiciary message, I reported that the courts were struggling under the weight of a crushing caseload. Case filings in all categories were at record levels. I talked with you about our most troubling cases, juvenile, domestic abuse and criminal, which were consuming most of our court resources. We faced the strong possibility that all of our resources would eventually be used for criminal matters at the expense of civil cases. More resources, particularly more judges, were needed to help us confront this crisis.

Thank you, for your generous response. The additional resources you provided, although not our full request, have somewhat eased the pressure.

It would be easy for us to respond to this help by leaning back, and breathing a sigh of relief. But that would be a mistake because the problems I described last year are still very much with us.

Keeping up with the rising tide of cases remains our biggest challenge. More than one-half million cases, not including simple traffic violations, were filed last year in this state. That's more than one case every minute. In other words, during the time that I'm visiting with you this morning, thirty new cases will be filed.

Criminal, domestic abuse and juvenile cases continue to crowd our dockets and consume our time the most.

Please listen to the growth last year in the number of these cases:

- Indictable criminal cases, the most serious crimes, jumped 10%.
- Simple misdemeanor cases, a category in which we always see high-volume, increased 13%.
- -Juvenile cases grew 6%.
- And, domestic abuse cases continue to pour in at a frenzied rate; they shot up 31%.

There's no end in sight to these alarming trends. Because of time constraints, I won't go into more detail about the caseload now. But I ask that you carefully review the information that is attached to these remarks.

You must bear in mind that new laws and mandates inevitably increase the pressure.

Tougher criminal penalties add to the demands on our courts. New civil remedies add to the demands on our courts. Shorter time frames for hearings add to the demands on our courts. Each one adds to the demands placed on the courts, which in turn adds to the need for more resources. It's like trying to manufacture a newly designed car without retooling the factory.

How does all of this look to the hundreds of lowans coming to court each day?

Sensational trials, such as that of O.J. Simpson, grab front-page headlines and public attention. But while they serve in some ways to educate the public about court procedures, they bear little resemblance to typical cases that represent the courts' routine business.

Last year, I provided you with some descriptions of the hectic pace in our urban courthouses. Rural courts are also overwhelmed. However, there's a major difference be-

tween court service in a rural courthouse and an urban courthouse. Rural courts do not have the luxury of having a judge available each day.

In Dallas County, just to the west, court service day resembles a "cattle call" with people nervously waiting for hours to have their case heard. Criminal matters get top priority. They are heard first. Civil cases are heard later in the day only if all criminal matters are completed. It's not unusual for court service to continue into the night with some matters left unresolved.

Many cases get "bumped" until later dates. Recently, I learned of a dissolution case pending in Dallas County involving the custody of two children. The day before trial, the case was continued because all of the judges were busy, presiding over other cases. The family came back six weeks later. Again, the day before trial, the case had to be continued because the judges were too busy on other matters. Imagine the strain on the parents and the children. The case is scheduled again to be heard this month. I certainly hope that it can be.

What can we do to reduce some of this enormous burden and still provide the public with an appropriate method for resolving disputes?

Alternative dispute resolution, such as mediation, is one way to reduce our civil caseload. According to the survey which I mentioned earlier, this is favored by most lowans.

This past year we've been working with our judicial districts and private providers to furnish mediation services around the state. Many of our busiest courts now offer small claims mediation. Mediation of personal injury cases appears to be growing rapidly.

Mediation of family law cases is not catching on as much as we'd like it to. We don't know why. Educating people on the value of mediation in these cases should help. We've sponsored, with the help of other groups, many training programs on the use of mediation in family law cases. We hope this training promotes mediation and encourages people to try it.

Two new family law mediation projects are underway thanks to grants from the court's technology fund, which you provided to us two years ago. The Johnson County Bar Association and the Sixth Judicial District have teamed up to start a court-annexed family

mediation program. The Second Judicial District and the Center for Creative Justice in Ames are working together on a child custody and visitation mediation project to divert modification of custody claims from the courts.

Whether mediation will make a noticeable difference in our caseload remains to been seen. However, any progress we make on the civil side is overshadowed by the relentless growth in criminal, domestic abuse and juvenile cases.

Breaking the back of crime, protecting victims of domestic abuse, and turning around the lives of troubled children are high on your agenda. We share your concerns and our courts wrestle with these issues daily. But right now, these cases have us in a 'choke-hold' with little time left for other important cases.

I want to commend our judges and staff. They're working their hardest, with the aid of technology and innovative programs, to handle the constant barrage of cases. However, we need your continued support.

As long as the unprecedented demand for court services continues, we'll need more judges, more staff and more support. Our specific budget needs and recommendations are contained in our budget request which we have submitted to you.

In addition, adequate compensation to attract and retain good judges shores up the strength of our operations. Our judges were heartened last year by your attempt to meaningfully respond to the recommendations of the judicial compensation commission. We hope that issue will be re-examined by you this year.

You deserve and have our warmest thanks for responding to our concerns in the past. We must continue to work together to meet the public's need for a fair and effective court system.

DOMESTIC VIOLENCE

Domestic Violence Creates an Important New Role for Judges and Lawyers

By Judge Mark S. Cady, Iowa Court of Appeals

Domestic violence can be found at the center of a broad range of debilitating social problems. Beyond the abject inhumanity, it most tragically threatens the foundation of the family, while quietly securing its path of destruction for future generations by conditioning children who grow up as its witnesses that battering is acceptable or normal. The traditional role within the legal profession, ironically, limits the ability of judges and lawyers to respond to this cycle of violence and effectuate real change. This limitation over time can lead to frustration, even indifference, from the bench and bar. There is a new role for judges and lawyers, however, which offers new opportunities. This role quite simply can be discovered by participating with other community leaders in domestic violence councils or coalitions.

Judges and lawyers observe the cycle of violence produced by domestic abuse in much of their work. It is commonly found in the background information of a criminal presentence report or a predispositional report in a juvenile delinquency case, as well as a host of civil proceedings. Unquestionably, the most significant difference between delinquent and nondelinquent youths is a family history of violence or abuse.1 Children raised in violent houses are four times more likely to engage in serious criminal acts.2 Moreover, 70 percent of today's batterers grew up in violent households.3 When spousal abuse exists in a house, there is a 50 percent chance child abuse also exists.' Furthermore, two-thirds of all males less than 21 years old serving a sentence for murder killed their mother's batterers.'
Yet, despite the startling correlation between domestic abuse and an array of other problems faced by judges and lawyers, the corrective measures put into place in our nation's courtrooms often have little impact on the overall problem. Each year the number of cases filed with our courts only continues to grow.

The common functions of a judge, as well as those of a lawyer, are exercised only after the event or conduct responsible for court intervention has taken place. The role of the legal profession consequently is reactive. Criminal court judges, for instance, exercise their sentencing powers as a response to an offender's conduct. Yet the criminal conduct has often been repeated over and over by the time of sentencing, and the attitude responsible for the offensive conduct began its development may years earlier. The judicial goal of rehabilitation is plagued by this fundamental obstacle. The conditions existing at the time of judicial intervention can frustrate hope for change. These conditions can also generate criticism the legal system has failed. Similarly, domestic abuse cases tend to produce the same response. The increased caseload, however, will not be reversed until those factors responsible for the cases are identified and addressed; likewise, neither will the judicial frustration and public criticism.

A legal system can only act, in its primary capacity, as a responsive mechanism in society. This will not change. Family violence councils, on the other hand, allow judges and lawyers to reach out proactively, while opening new doors of personal fulfillment in their daily work Councils allow judges and lawyers to participate in building a comprehensive community response to reduce and over time eliminate family violence. This approach provides an opportunity for judges and lawyers to profoundly impact their community, far more than the most well-reasoned decision or the most eloquent argument. The sad legacy of domestic abuse can be transformed into a constructive understanding of how the elimination of family violence from the future of each community will begin to eradicate its vast, crippling, systemic problems.7

A family violence coalition recognizes domestic abuse as a community problem, not simply a problem for our courts. Consequently, a comprehensive approach is required. The legal community is a key component to the response, and judges and lawyers are needed to share their special knowledge, perspectives, and understanding. With input from the bench and bar, a sound coordinated system of intervention, treatment, prevention, and education can be implemented to design family violence out of the future of each community. At the same time, a council can assist the court system in responding to the increased domestic abuse caseload and help resolve issues which often frustrate or trouble the current domestic abuse work of judges and lawyers. An important step to the elimination of domestic abuse is a legal system which is fully responsive to the problem.

There is, understandably, some hesitation for judges to join a coalition. Judges are not accustomed to participating in extrajudicial activities. Many outside activities are prohibited or limited by the Code of Judicial Conduct and even those which are permissible can present a risk. Thus, judicial caution is proper. However, the Code of Judicial Conduct should not be used as the reason to decline participation.

The reluctancy of judges to join

coalitions generally arises from a fear the council work will bear directly on the work of the court. There is also a common fear coalition participation will create an appearance of a conflict of interest.

Judges are required by their code of conduct to avoid the appearance of impropriety in all activities they pursue and to regulate extrajudicial activities in order to minimize the risk of conflict with their judicial duties. These important precepts, however, do not prohibit participation on coalitions.

The work of a council or coalition looks far beyond any particular case in the legal system and strives to improve the general framework of the system. Consequently, the work of a council does not conflict with the day-to-day functions of a judge. Moreover, judges do not compromise their impartiality by membership in a group devoted to improving the legal system. Membership on a council does not make a judge an advocate for any particular group, only an advocate for making the legal system work the best way possible. This type of advocacy is permissible. 10 Judges are not only permitted to work outside their courtrooms to improve the system of justice, but as lawyers they have an affirmative responsibility to step forward to assist in improving the legal system by reason of their special knowledge and perspective.11

Author Stephen R. Covey tells a story of a young, relatively obscure musician in England a few years ago who, upon learning of the massive famine and starvation in growing regions of Africa, decided to hold a benefit concert at a small local theater to raise money. The flyers advertising his concert were soon noticed by other musicians, who also became motivated to help. Within a short period of time, what began as a seemingly insignificant effort to address a massive problem, remarkably transformed into the global event known as Band Aid, and mobilized the world to help curb the catastrophe. Similarly, the response to domestic abuse must begin in each community, and that response may very well become the spark to harness the power of the world against domestic abuse. Judges and lawyers have an opportunity to initiate that spark and help discover what it would truly mean to stop domestic violence. It could be the most important role ever assumed.

¹ Miller, G. (1989). "Violence by and against America's Children," Journal of Juvenile Justice Digest, XVII (12), p.6.

² Gelles, R.J. (1988). The Impact of Violence. Kingston: University of Rhode Island Department of Sociology.

³ U.S. Department of Health and Human Services. (1991). Family Violence. An Overview. Washington, D.C.: Clearingbouse on Child Abuse and Neglect and Family Violence Information.

⁴ Hughes, H.M. (1992). Impact of Spouse Abuse on Children of Battered Women. Violence Update. 2(12), 1-11.

'H. Ackerman, The War Against Women: Overcoming Female Abuse, 2 (Hazelden Foundation, 1985).

In Iowa, the number of civil domestic abuse filings increased from 188 to 5583 from 1990 to 1995. During the last decade, the number of indictable criminal cases more than doubled (41,116 to 88,219). The number of juvenile filings jumped 58 percent (6060 to 9596). Source: State Court Administrator's Office, Iowa Judicial Department, January 1996.

The consequences of domestic abuse extend well beyond the immediate harm to family members. For instance, it is estimated medical services provided to victims of domestic abuse costs \$857.3 million annually. Business and industry incur costs between \$3 billion to \$5 billion annually due to lost productivity, worker turnover and health care expenses from domestic abuse. Final Report of the Supreme Court Task Force on Courts' and Communities' Response to Domestic Abuse p. 102, 106 (August 1994).

* Code of Judicial Conduct Canon 2; Code of Judicial Conduct Canon 3: Code of Judicial Conduct Canon 5.

⁹ See <u>State v. Knowlton</u>, 854 P.2d 259 (Idaho 1993) (Judge's membership in governor's task force on child abuse did not require recusal from probation revocation bearing involving statutory rape); United States v. Payne, 944 F.2d 1458 (9th Cir. 1991), cert denied, 503 U.S. 975, 112 S. Ct. 1598, 118 L. Ed. 2d 313 (1991) (Judge's participation in commission on pornography did not support recusal from trial for carnal knowledge of child).

Code of Judicial Conduct Canon 4. Code of Professional Responsibility Canon 8.



Community Domestic Violence Coalitions: A Resource for the **Legal System**

By Jennifer Juhler **Domestic Abuse Intervention Coordinator** State of Iowa Judicial Department

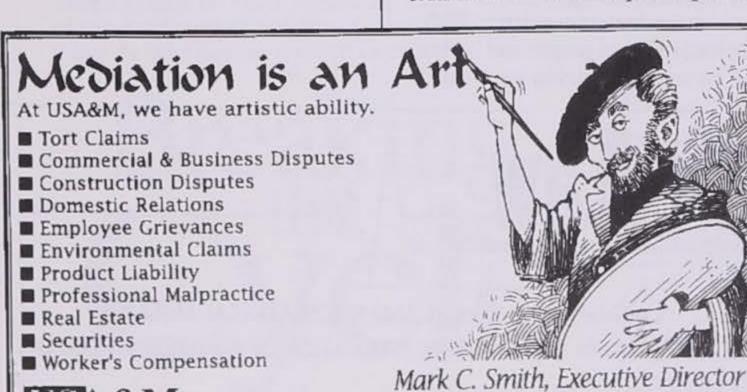
During the consciousness-raising groups of the 1970s, women began to identify a discrepancy in the manner in which the criminal justice system perceived assaultive behavior. Assaults by strangers were taken seriously, but assaults by husbands or boyfriends were viewed as private matters and therefore substantively inappropriate for a criminal legal response. General awareness of partner violence has expanded tremendously since that time. What initially appeared to be a simple issue of justice denied has grown into a tangled web of social and legal problems.

As researchers in our society studied and enhanced our collective understanding of intimate partner violence, legal resources for victims of domestic violence multiplied. In 1986, mandatory arrest became law in Iowa. We now have between 5,000 to 6,000 arrests annually. The expansion to create the civil pro se process

in 1991 resulted in an increase in caseload of approximately 6,000 petitions filed annually. Changes in the law have dramatically improved the options available to victims of battering while adding pressure to an already overburdened legal system.

Concurrent to the pressure imposed on the legal system by legislative changes, societal attitudes about domestic abuse were being transformed. Ten years ago, most Americans excused violent behavior and believed that the victim of abuse "provoked" or "deserved" the violence. A study conducted in 1992 by the Family Violence Prevention Fund found that 87 percent of Americans think domestic violence is a serious problem and that they are unwilling to excuse violent behavior and unwilling to blame the victim. The Family Violence Prevention Fund study also found that most Americans want to do something constructive about domestic violence but are uncertain about what to do.

In August 1993, when the Iowa Supreme Court ordered the formation of a task force to study domestic abuse case handling in lowa, the court placed an emphasis on courts working with communities. The task force was to look at current court practices and investigate ways in which the courts could work with other community resources to address the extensive issue of domestic violence. Further, the court was interested in identifying measures to improve judicial access and treatment of domestic abuse cases



14 August 1996

Call (515) 226-0100 or 1-800-373-6174 for information.

2100 Westown Parkway, Suite 210, West Des Moines, IA 50265

and mechanisms to implement the recommendations of the task force. The task force composed of judges, lawyers, victim advocates, a court administrator, and an administrator from the Department of Corrections, conducted surveys, heard testimony, consulted research, and used their specialized expertise. In August 1994, the task force submitted its final report to Chief Justice Arthur A. McGiverin. Since then, members of the supreme court have been reviewing and acting on recommendations contained in the task force report.

Many of the recommendations directed at Iowa courts involve judges setting an example; the recommendations also provide examples about how judges might exert leadership in the area of domestic abuse. Specifically, one recommendation approved by the supreme court advises that judges may participate in domestic violence coalitions as long as their obligation to remain neutral in individual cases is not compromised.

To implement this recommendation, the judicial department identified 26 existing domestic violence coalitions throughout the state. The chief judge in each judicial district appointed at least one judge to attend each coalition identified in their district. Appointed judges attended informational meetings in late 1995 to learn more about the coalitions and to discuss their role. Currently, judges have begun attending coalition meetings throughout the state.

The majority of Iowa's domestic violence coalitions are maintained by the Department of Correctional Services as part of the Batterers Education Program (BEP). The standards for BEP state that the purpose of the coalitions is to effect a coordinated community response to domestic violence. According to the standards, coalition membership should "include, but not be limited to, law enforcement, prosecution, judiciary, defense bar, domestic violence project personnel, corrections,

survivors and medical personnel." A leading national expert on coordinated community response, Judge Leonard P. Edwards of Santa Clara County, California, articulates a threefold purpose for coalitions: to effectuate coordination between agencies, departments, and the courts with victims of domestic violence and abuse, to promote effective prevention, intervention and treatment techniques which will be developed based upon research and data collection, and to improve the response to domestic violence and abuse so as to reduce incidents thereof.

Within Iowa communities there are untapped resources that can assist the legal profession in carrying out its crucial role. For instance, the Davenport coalition addressed a problem that surfaces when there are allegations of spousal abuse in a dissolution case. Often in these cases, exchange of children for visitation is problematic as the parent claiming abuse may feel that visitation offers opportunities for continued abuse. With the assistance of local churches, the coalition opened a visitation drop-off center for separated or divorced parents with a history of domestic abuse. The project created a necessary resource for judges by marshaling the community's financial resources and its concern about domestic violence. With the leadership of judges and lawyers, the Davenport coalition has created

a constructive solution to a difficult and common problem.

Increasing pressure on the legal system and changing societal attitudes have converged at a crucial moment in history. Leadership in community coalitions by judges and lawyers can benefit the legal profession and the practice of law. Judges and lawyers can also grasp the opportunity to educate the community about the legal system, its strengths, and limitations. Participation in coalitions can be mutually beneficial for the legal system and the community.

MedLaw

Forensic Research Specialists, L.C.

CASE-SPECIFIC MEDICAL AND PSYCHOLOGICAL RESEARCH
SPECIALIZING IN THE STRATEGIC APPLICATION OF SCIENTIFIC LITERATURE

-V- Case merit evaluation

Location of experts

- Deposition & trial preparation

- Trial exhibits/graphics

P.O. Box 1503 Waterloo, IA 50704 Phone (319)235-0085 Fax (319)235-0093



Judge James D. Scott addresses Friday's meeting of the Tri-County Coalition Against Domestic Violence at the Osceola County Courthouse in Sibley.

"We each have a job in dealing with the issue of domestic violence," he said.

(Photo by Joe Murphy)

Breaking the 1 Cycle

New coalition to stop domestic violence launches programs in three counties

By VID JOHNSON Staff Writer

REGIONAL—Domestic violence can be stopped if legal professionals, law officers, intervention and prevention specialists, victims and community members work together, a district court judge said Friday in Sibley.

together, a district court judge said Friday in Sibley.
"I know domestic violence is a prevalent problem in our society," Judge James D. Scott said at the first meeting of the Tri-County Coalition Against Domestic Violence.

See ABUSE on page A8

Coalition organizes

ABUSE

Continued from page A1

"We each have a job in dealing with the issue. No one of us has the corner on the answer," he told a group of 20 people at the Osceola County Courthouse. "The purpose of this group is to stop domestic violence. Remember that — the purpose is to stop the cycle" of abuse.

The coalition in O'Brien, Osceola and Lyon counties has been organized in the wake of new outreach offices opened by the Domestic Violence Aid Center in Stoux Center and the start next month of a batterers education program in Sheklon. Creative Living Center, a Rock Valley-based private agency providing outpatient therapy services, has been contracted to direct the batterers education program in the threecounty area.

Also represented at the meeting were Osceola and O'Brien County magistrates, Lyon and Osceola county attorney's offices and court clerks, the Osceola County Sheriff's Department, state Department of Corrections parole and probation officers, and regional agencies.

From the perspective of the Third Judicial District bench, Scott shared insights on the court's role in dealing with domestic-abuse cases.

In 1986 the Iowa Legislature made criminal arrests mandatory in domestic-violence cases. Five years later, additional legislation established mandatory penalties, including a law requiring convicted batterers to complete a rigorous education program as part of their sentencing.

Scott noted that domestic violence is the only legal matter in which a petition for a protective order can be faxed to a judge if one is not immediately available. Charges of domestic abuse are put on a faster court track than most other legal matters. "It shows the emphasis the Legislature places on this issue and how serious the courts are in dealing with it," he said.

. The law still has some kinks to

work out, and helping victims and others working to curb domestic violence become better informed about the law would improve the response by the legal system, Scott said. His suggestions to coalition members included:

Encourage victims who have filed abuse or assault complaints to follow through with the charges. About half don't show up for court, he said. "That's very frustrating." Advocates and county attorneys should not discourage them from filing charges again if abuse recurs. "If it happens again and it probably will, they come better prepared to follow through with it," Scott said.

In civil cases, ask the court to mandate completion of a betterers education program on first offense if the situation warrants. In a criminal case, completing the program is automatically included in sentencing. The program is not mandated until a second conviction in civil cases. But a victim filing a civil charge for the first time might have finally done so after a history of being abused or after experiencing a serious threat of harm, he said. "That should be brought to the court's attention," Scott added. "You need to ask."

finances. A victim could lose credibility if she misrepresents her ability to pay legal fees by claiming she has no money. The legal costs are about \$100 per case, Scott said. Victims who have the means to pay should not ask the court to waive the fees. "It hurts your credibility. It adds frustration to the whole system."

View the court as impartial, not insensitive, "I can't help one side more than the other." Scott said, "Judges are more sensitive to the problem of domestic violence than what might appear. The court is not an advocate for one side or the other."

Scott's remarks prompted questions and more discussion among coalition members. Carrie Reynolds, a state probation and parole officer, said county attorneys and magistrates play a key role in the coalition's efforts. "It is so vital to have their participa-

tion," she said.

During the next three months, members will study a proposal to train volunteers as victim advocates who can assist magistrates when the newly hired three-county outreach advocate, Melissa Cox. is unavailable.

The first batterers education program in Lyon, O'Brien and Osceola counties is slated to begin June 19 in Sheldon During the 24-week mandatory program, convicted batterers learn to take responsibility for their actions.

Beth Larson of Creative Living Center is coordinating the program. State law mandates that hatterers education programs be accessible in each of the eight judicial districts in Iowa. In the 16-county Third Judicial District, there now are four programs offered at six sites.

Andy Visser, managing director for Creative Living Center, said violence in relationships and within families can threaten the longterm safety of all citizens.

"There's a long-range good we need to stay focused on," he said, "and that's agreeing that we don't settle differences with violent behavior."

Appendix E

Clerk Protocol Table

		A 1877					22.22				
County	Sign	Safety	Space	4 Hrs.	Staff	Needs	Guide	Phone	Assist	Screen	Fund
Adair											
Adams											
Allamakee	-		-								-
Appanoose			-	-		-		8		=	-
Audubon	-					-			-	-	
Benton											
Black Hawk											
Boone											
Bremer											
Buchanan					-						-
Buena Vista										-	
Butler											
Calhoun									-		
Carroll											
Cass							-				-
Cedar											
Cerro Gordo											
Cherokee											
Chickasaw											
Clarke			-	-							
Clay								-			
Clayton				-							
Clinton	-			-					-	-	
Crawford			-								
Dallas		-					-	-			-
Davis		-				-				-	
Decatur			-	1000							-
Delaware				-		-				-	
Des Moines		-	-			-			-		-
Dickinson			-	_	_	-	50		_		-
Dubuque		8	-	8	9	-	100				=
Emmet	-	-	-		_	-		_		_	-
Fayette	-		8		-	8			-	=	-
Floyd			-		•		100		8	-	-
Franklin	30-31	246				-		-	-		8
Fremont	-		-			-				-	-
Greene					-	-					
Grundy	-		-		-	-	-		-	8	-
Guthrie	-		-	9	-	8	80	-		-	-
Hamilton								100			
Hancock											-
Hardin			-			-					-
Harrison	-							-		m	-

Summary of Clerk of Court Domestic Abuse Protocols Sign County Safety Space Needs Phone 4 Hrs. Staff Guide Screen Funds Assist Howard П П П Humboldt П Ida П П Iowa П П Jackson Jasper П Jefferson П Johnson П Jones П П Keokuk П П П Kossuth Lee П П Linn Louisa П Lucas П П П П Lyon П П Madison П П Mahaska П Marion П П Marshall Mills П П Mitchell П Monona П П Monroe П П П П Montgomery П П П П Muscatine O'Brien П Osceola Page П П Palo Alto П П Plymouth П П П Pocahontas П П П П П Polk П П П Pottawattamie П П Poweshiek П П Ringgold -Sac П П Scott Shelby Sioux П П П П Story П П О Tama П П П Taylor П П BH. П Union

45.00

Summary of Clerk of Court Domestic Abuse Protocols Guide Safety Space 4 Hrs. Screen Funds Sign Staff Needs Phone Assist County Van Buren Wapello П Warren П П П Washington Wayne П Webster Winnebago Winneshiek П П П Woodbury П П Worth Wright

Sign = Signs are placed at various points in the courthouse to direct pro se litigants to the clerk's office as the place to get a domestic abuse order.

Safety = Clerk inquires about the immediate safety needs of the petitioner.

Space = Petitioners are afforded a private space to complete paperwork.

4 Hrs = Petitions are processed within four hours of presentation.

Staff = Office has staff who specialize in processing domestic abuse petitions.

Needs = Office has a system to address petitioners with language or other special needs.

Guide = Petitioners are guided throughout the process of filing a petition.

Phone = Phone numbers to access victim services are provided to petitioners.

Assist = Clerk provides reasonable non-legal assistance.

Screen = Clerk does not screen petitions.

Funds = Petitioners are informed about their right to file without payment of fees.

HE

Appendix F

Implementation Overview Table

Task Force Recommendation	Legislation Passed	Legislation Failed	Approved	In Progress	Complete or On-Going	Referred
judges and court administration set an example, p. 25	Tussou	Tuned	Прриотеа	Trogress	er on going	Referre
 complaint mechanism for judges and court staff, p. 25 			•			
judges participate in community coalitions, p. 26						
4. judges speak in community about partnership, p. 26						
 judges and judicial employees receive annual training, p. 27 						
6. courts keep criminal and civil case statistics, p. 28						
7. increase budget to relive burden on courts, p. 28						
domestic abuse intervention coordinator, p. 28						
9. issue a challenge, p. 29						
10. police develop working relationship with DV program(s), p. 32						•
11. law enforcement minimum 12 hrs. training; 4 hrs. in- service, p. 33						
12. LE participate in community coalitions, p. 33						
13. legis: clarify police duties when both parties accuse other of assaultive beh., p. 33						
14. legis: police seize weapons, p. 33		•				

Implementation Overview						
Task Force Recommendation	Legislation Passed	Legislation Failed	Approved	In Progress	Complete or On-Going	Referred
15. LE implement written protocol, p. 34						
16. co. atty. provide leadership for comm response, p. 41						
17. co. atty. participate in community coalition, p. 41						
18. co. atty. work with police to try cases without victim, p. 41						•
19. legis: co. atty dev. written policies to prosecute DV, p. 41	•					
20. co. atty., public defenders and defense atty. attend DV cont. ed. programs every two years, p. 42						
21. legis: remove simple mis- demeanor decline to prosecute, p. 42						
22. co. atty. create specialized DV units, p. 42						-
23. co. atty. develop formal working relat w/DV project, p. 42						•
24. co. atty. review charges at initial appearance, p. 42						
25. increased funding from local & state governments, p. 43						
26. judges should impose BEP, p. 45						
27. legis: allow BEP facilitators to receive police reports, p. 46	-					
28. co. atty. should actively pursue revocations, p. 46						•

Implementation Overview						
Task Force Recommendation	Legislation Passed	Legislation Failed	Approved	In Progress	Complete or On-Going	Referred
29. clerk training on dynamics and role in pro se, p. 52						
30. specialization of clerk staff, p. 52						
31. clk: safety and security of personnel and litigants, p. 52					•	
32. use of fax machines, p. 52				7		100
33. signs for pro se litigants, p. 52						Daily L
34. legis. increase staff and resources for clerks, p. 52					Perker II	
35. clk attend local DV coalitions, p. 52						
36. clk dev written protocol, p. 52						
37. district protocol for emergency orders, p. 58						
38. courts never enter mutual orders, p. 60						
39. chief judges make form orders for criminal and civil orders, p. 63						
40. legis: statewide law enforcement network, p. 63				without legis		
41. legis: registration and enforcement of foreign orders, p. 63						
42. strengthen court's ability to enforce protective orders, p. 66	•					
43. bar assoc, legal services encouraged to provide cont ed DV progs, p. 76						

	Legislation	Legislation		In	Complete	
Task Force Recommendation	Passed	Failed	Approved	Progress	or On-Going	Referred
44. legis: increase marriage license, p. 76		-				
45. bar association encourage vol lawyer project, p. 76					•	•
46. legis: dist assoc judges and magistrates sign orders, p. 81	dist assoc only					
47. contingent on #46 procedure for magistrate to sign order, p. 81						
48. sign orders within 4 hrs., p. 81					•	
49. dist assoc and magistrates are last resource, p. 82					-	
50. legis: allow plaintiffs to recover atty fees, p. 82						
51. legis: DV files sealed by application of petitioner, . 82						
52. chapter on dating violence, p. 83						-
53. 236 definition expanded to juveniles, p. 83						
54. guardian file on behalf of juvenile, p. 83						
55. mediation prohibited in 236 cases, p. 86			•			
56. ICADV and CPS dev cross training, p. 93				-		
57. DHS and ICADV guidance from nat'l initiatives, p. 93					•	•
58. judges receive training on custody and best interests of the child in DV, p. 96			•			

Ro

	mplen	ientatio	on Over	view		
Task Force Recommendation	Legislation Passed	Legislation Failed	Approved	In Progress	Complete or On-Going	Referre
59. legis: rebuttable presumption, p. 96						
60. CPS, DHS, prosecutors, judges consider purpose of 726.6 in DV cases, p. 97			-			
61. advocates on statewide implementation council, p. 102						•
62. advocates dev training materials for judges, lawyers, police and clks, p. 102					•	
63. advocates need more money, p. 102						-
64. medical comm on statewide and local coalitions, p. 103					-	
65. medical talk to DV before mandatory reporting, p. 103						
66. religious comm subcommittee, p. 105						
67. religious leaders join local coalitions, p. 106						•
68. religious leaders set example, p. 106						-
69. premarital counseling discuss DV, p. 106						•
70. business comm subcommittee, p. 107				#		•
71. business leaders join local coalitions, p. 108						-
72. business leaders set example, p. 108						•

	Legislation	Legislation		In	Complete	
Task Force Recommendation	Passed	Failed	Approved	Progress	or On-Going	Referred
73. school boards expand curricula to include DV, p. 109						•
74. educators and youth leaders subcommittee, p. 109						-
75. educators and youth leaders join local coalitions, p. 109						•
76. schools and youth groups raise awareness, p. 109						•

Appendix G

Legislation

ANACT

RELATING TO DOMESTIC ABUSE AND PROVIDING A PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 13.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Develop written procedures and policies to be followed by prosecuting attorneys in the prosecution of domestic abuse cases under chapters 236 and 708.

Sec. 2. Section 232.8, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The juvenile court shall have jurisdiction in proceedings commenced against a child pursuant to section 236.3 over which the district court has waived its jurisdiction. The juvenile court shall hear the action in the manner of an adjudicatory hearing under section 232.47, subject to the following:

(1) The juvenile court shall abide by the provisions of sections 236.4 and 236.6 in holding hearings and making a disposition.

(2) The plaintiff is entitled to proceed pro se under sections 236.3A and 236.3B.

Sec. 3. Section 232.22, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. There is probable cause to believe that the child has committed a delinquent act which would be domestic abuse under chapter 236 or a domestic abuse assault under section 708.2A if committed by an adult.

Sec. 4. Section 232.29, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. An informal adjustment agreement regarding a child who has been placed in detention under section 232.22, subsection 1, paragraph "f", may include a provision that the child voluntarily participate in a batterers' treatment program under section 708.2B.

Sec. 5. Section 232.46, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. A consent decree entered regarding a child placed in detention under section 232.22, subsection 1, paragraph "f", shall require the child to attend a batterers' treatment program under section 708.2B. The second time the child fails to attend the batterers' treatment as required by the consent decree shall result in the decree being vacated and proceedings commenced under section 232.47.

Sec. 6. Section 232.52, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. In the case of a child adjudicated delinquent for an act which would be a violation of chapter 236 or section 708.2A if committed by an adult, an order requiring the child to attend a batterers' treatment program under section 708.2B.

Sec. 7. Section 236.2, subsection 4, Code 1995, is amended to read as follows:

4. <u>a.</u> "Family or household members" means spouses, persons cohabiting, parents, or other persons related by consanguinity or affinity,-except-children-under-eighteen.

b. "Family or household members" does not include children under age eighteen of persons listed in paragraph
"a".

Sec. 8. Section 236.3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person, including a parent or guardian on behalf of an unemancipated minor, may seek relief from domestic abuse by filing a verified petition in the district court. Venue shall lie where either party resides. The petition shall state the:

Sec. 9. Section 236.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. If the petition is being filed on behalf of an unemancipated minor, the name of the parent or guardian filing the petition and the parent's or guardian's address. For the purposes of this chapter, "plaintiff" includes a person filing an action on behalf of an unemancipated minor.

Sec. 10. Section 236.3, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the person against whom relief from domestic abuse is being sought is seventeen years of age or younger, the district court shall waive its jurisdiction over the action to the juvenile court.

Sec. 11. Section 236.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The court may order that the defendant pay the plaintiff's attorneys fees and court costs.

Sec. 12. Section 236.8, Code 1995, is amended to read as follows:

236.8 CONTEMPT — HEARINGS.

The A person commits a simple misdemeanor or the court may hold a party person in contempt for a violation of

an order or court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault. If convicted or held in contempt, the defendant shall serve a jail sentence. Any jail sentence of more than one day imposed under this section shall be served on consecutive days. A defendant who is held in contempt or convicted may be ordered by the court to pay the plaintiff's attorneys fees and court costs incurred in the proceedings under this section.

A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court.

A person shall not be convicted of and held in contempt for the same violation of an order or court-approved consent agreement entered under this chapter, for the same violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault.

Sec. 13. NEW SECTION. 236.20 FOREIGN PROTECTIVE ORDERS — REGISTRATION — ENFORCEMENT.

- 1. As used in this section, "foreign protective order" means a protective order entered in a state other than Iowa which would be an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Iowa.
- 2. A copy of a foreign protective order authenticated in accordance with the statutes of this state may be filed with the clerk of the district court of the county in which the person in whose favor the order was entered resides. The clerk shall provide copies of the order as required by section 236.5.
- A foreign protective order so filed has the same effect and shall be enforced in the same manner as a protective order issued in this state.
 - Sec. 14. NEW SECTION. 236.21 MUTUAL PROTECTIVE ORDERS PROHIBITED EXCEPTIONS.

A court in an action under this chapter shall not issue mutual protective orders against the victim and the abuser unless both file a petition requesting a protective order.

Sec. 15. Section 708.2B, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. District departments or contract service providers shall receive upon request peace officers' investigative reports regarding persons participating in programs under this section. The receipt of reports under this section shall not waive the confidentiality of the reports under section 22.7.

Sec. 16. Section 907.3, subsection, 1, paragraph i, Code 1995, is amended to read as follows:

- i. The offense is a conviction for or plea of guilty to a violation of section 236.8 or a finding of contempt pursuant to section 236.8 or 236.14.
 - Sec. 17. Section 907.3, subsection 2, Code 1995, is amended to read as follows:
- 2. At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. However, the court shall not defer the sentence for a violation of section 708.2A if the defendant has previously received a deferred judgment or sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or if similar relief was granted anywhere in the United States concerning that jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A. In addition, the court shall not defer a sentence if it is imposed for a conviction for or plea of guilty to a violation of section 236.8 or for contempt pursuant to section 236.8 or 236.14. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.
- Sec. 18. The commissioner of insurance shall evaluate model legislation which will be proposed by the national association of insurance commissioners regarding using domestic abuse as a factor in determining whether a person shall be offered insurance coverage and make recommendations to the general assembly regarding adopting the model legislation.

LEONARD L. BOSWELL President of the Senate

RON J. CORBETT Speaker of the House

	I hereby certify	that this bill	originated in t	he Senate ar	nd is known	as Senate	File 367, 5	Seventy-sixth	General
Assem	bly.								

JOHN F. DWYER Secretary of the Senate

Approved________, 1995

TERRY E. BRANSTAD

Governor

AN ACT

RELATING TO CHILDREN, INCLUDING CHILD ABUSE INVOLVING TERMINATION OF PARENTAL RIGHTS IN CERTAIN ABUSE OR NEGLECT CASES, THE DEPARTMENT OF HUMAN SERVICES' ADOPTION INFORMATION EXCHANGE, AND ACCESS BY OTHER STATES TO CHILD ABUSE INFORMATION, CASE PERMANENCY PLANS FOR CHILDREN IN OUT-OF-HOME PLACEMENTS, STATE FOSTER CARE REQUESTS, AND CUSTODY AND VISITATION DETERMINATIONS AND PROVIDING AN APPLICABILITY AND EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 232.2, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows: "Case permanency plan" means the plan, mandated by Pub. L. No. 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B), and 675(1),(5), which is designed to achieve placement in the least restrictive, most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. The plan shall specifically include all of the following:

Sec. 2. Section 232.2, subsection 4, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The actions expected of the parent, guardian, or custodian in order for the department or agency to recommend that the court terminate a dispositional order for the child's out-of-home placement and for the department or agency to end its involvement with the child and the child's family.

Sec. 3. Section 232.88, Code 1995, is amended to read as follows:

232.88 SUMMONS, NOTICE, SUBPOENAS AND SERVICES.

After a petition has been filed the court shall issue and serve summons, notice, subpoenas, and other process in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37. In addition to the parties required to be provided notice under section 232.37, notice for any hearing under this division shall be provided to the agency, facility, institution, or person, including a foster parent, with whom a child has been placed for the purposes of foster care.

Sec. 4. Section 232.91, Code 1995, is amended to read as follows:

232.91 PRESENCE OF PARENTS, AND GUARDIAN AD LITEM, AND FOSTER PARENTS AT HEARINGS.

1. Any hearings or proceedings under this division subsequent to the filing of a petition shall not take place without the presence of the child's parent, guardian, custodian, or guardian ad litem in accordance with and subject to section 232.38. A parent without custody may petition the court to be made a party to proceedings under this division.

2. An agency, facility, institution, or person, including a foster parent, may petition the court to be made a party to proceedings under this division.

Sec. 5. Section 232.104, subsection 2, paragraph b, Code 1995, is amended to read as follows:

b. Enter an order pursuant to section 232.102 to continue placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

Sec. 6. Section 232.2, subsection 6, paragraph o, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

o. Who is described by any other paragraph of this subsection and in whose body there is an illegal drug present as a direct consequence of the acts or omissions of the child's parent, guardian, or custodian which a reasonable and prudent person knew or should have known is likely to lead to the drug's presence in the child's body. The presence of the drug shall be determined in accordance with a medically relevant test as defined in section 232.73.

Sec. 7. Section 232.68, subsection 2, paragraph f, Code 1995, is amended to read as follows:

f. An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child which a reasonable and prudent person knew or should have known is likely to lead to the drug's presence in the child's body.

Sec. 8. Section 232.73, unnumbered paragraph 2, Code 1995, is amended to read as follows:

As used in this section and section 232.77, "medically relevant test" means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, including a drug urine screen test. The Iowa department of public health, in consultation with the department of human services and the council on chemically exposed infants and children created in chapter 235C, shall adopt rules specifying minimum standards for reliable results of medically relevant tests. The rules shall include but are not limited to standards which minimize the incidence of false positive test results. The Iowa department of public health shall maintain a list of laboratories which are approved to perform medically relevant tests in accordance with the standards adopted in administrative rules.

Sec. 9. NEW SECTION. 232.106 TERMS AND CONDITIONS ON CHILD'S PARENT.

If the court enters an order under this chapter which imposes terms and conditions on the child's parent, guardian, or custodian, the purpose of the terms and conditions shall be to assure the protection of the child. The order is subject to the following provisions:

1. The order shall state the reasons for and purpose of the terms and conditions.

2. If a parent, guardian, or custodian is required to have a chemical test of blood or urine for the purpose of determining the presence of an illegal drug, the test shall be a medically relevant test as defined in section 232.73. The parent, guardian, or custodian may select the laboratory which processes the test from among the laboratories approved pursuant to section 232.73. A positive test result shall not be used for the criminal prosecution of a parent, guardian, or custodian for the presence of an illegal drug.

Sec. 10. Section 232.116, subsection 1, paragraph h, Code 1995, is amended to read as follows:

h. The court finds that both all of the following have occurred:

(1) The child meets the definition of child in need of assistance based on a finding of physical or sexual abuse or neglect as a result of the acts or omissions of one or both parents.

(2) There is clear and convincing evidence that the abuse or neglect posed a significant risk to the life of the child or constituted imminent danger to the child.

(2) (3) There is clear and convincing evidence that the circumstances surrounding the abuse or neglect of the child, despite the offer or receipt of services; constitutes imminent danger to the child would not correct the conditions which led to the abuse or neglect of the child within a reasonable period of time.

Sec. 11. Section 232.116, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The parent has been convicted of child endangerment resulting in the death of the child's sibling, has been convicted of three or more acts of child endangerment involving the child, the child's sibling, or another child in the household, or has been convicted of child endangerment resulting in a serious injury to the child, the child's sibling, or another child in the household.

(3) There is clear and convincing evidence that the circumstances surrounding the parent's conviction for child endangerment would result in a finding of imminent danger to the child.

Sec. 12. Section 232.119, subsection 5, Code 1995, is amended to read as follows:

5. A request to defer registering the child on the exchange shall be <u>submitted in writing and shall be</u> granted if any of the following conditions exist:

a. The child is in an adoptive placement.

b. The child's foster parents or another person with a significant relationship is being considered as the adoptive family.

c. The child needs A diagnostic study or testing is necessary to clarify the child's problem needs and to provide an adequate description of the problem child's needs.

d. The At the time of the request, the child is currently hospitalized and receiving medical care, mental health treatment, or other treatment and the child's care or treatment provider has determined that does not permit adoptive placement meeting prospective adoptive parents is not in the child's best interest.

e. The child is fourteen years of age or older and will not consent to an adoption plan and the consequences of not being adopted have been explained to the child.

Upon receipt of a valid written request for deferral pursuant to paragraphs "a" through "e", the exchange shall grant the deferral, except that a deferral based on paragraph "b" or "c" shall be granted for no more than a one time, ninety day period unless the termination of parental rights order is appealed. However, if the foster parents or another person with a significant relationship continues to be considered the child's prospective adoptive family, additional extensions of the deferral may be granted until ninety days after the date of the final decision regarding the appeal.

6. The following requirements apply to a request to defer registering a child on the adoption exchange under subsection 5:

- a. For a deferral granted by the exchange pursuant to subsection 5, paragraph "a", "b", or "e", the child's guardian shall address the child's deferral status in the report filed with the court and the court shall review the deferral status in the six-month review hearings held pursuant to section 232.117, subsection 6.
- b. In addition to the requirements of paragraph "a", a deferral granted by the exchange pursuant to subsection 5, paragraph "b", shall be limited to not more than a one time, ninety-day period unless the termination of parental rights order is appealed or the child is placed in a hospital or other institutional placement. However, if the foster parents or another person with a significant relationship continues to be considered the child's prospective adoptive family, additional extensions of the deferral request under subsection 5, paragraph "b", may be granted until sixty days after the date of the final decision regarding the appeal or until the date the child is discharged from a hospital or other institutional placement.
- c. A deferral granted by the exchange pursuant to subsection 5, paragraph "c", shall be limited to not more than a one time, ninety-day period.
- d. A deferral granted by the exchange pursuant to subsection 5, paragraph "d", shall be limited to not more than a one-time, one hundred-twenty-day period.
 - Sec. 13. Section 232.189, Code 1995, is amended to read as follows:
 - 232.189 REASONABLE EFFORTS ADMINISTRATIVE REQUIREMENTS.

Based upon a model reasonable efforts family court initiative, the director of human services and the chief justice of the supreme court or their designees shall jointly establish and implement a statewide protocol for reasonable efforts to prevent or eliminate the need for placement of a child outside the child's home. In addition, the director and the chief justice shall design and implement a system for judicial and departmental reasonable efforts education for deployment throughout the state. The system for reasonable efforts education shall be developed in a manner which addresses the particular needs of rural areas and shall include but is not limited to all of the following topics:

- 1. Regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.
- 2. The duties of judicial and departmental employees associated with placing a child removed from the child's home into a permanent home and the urgency of the placement for the child.
 - 3. The essential elements, including writing techniques, in developing effective permanency plans.
- 4. The essential elements of gathering evidence sufficient for the evidentiary standards required for judicial orders under this chapter.
 - Sec. 14. NEW SECTION. 234.7 DEPARTMENT DUTIES.

The department of human services shall comply with the following requirement associated with child foster care licensees under chapter 237:

The department shall include a child's foster parent in and provide timely notice of planning and review activities associated with the child, including but not limited to permanency planning and placement review meetings, which shall include discussion of the child's rehabilitative treatment needs.

- Sec. 15. Section 235A.15, subsection 2, paragraph e, subparagraph (4), Code 1995, is amended to read as follows:
- (4) To a legally constituted child protection agency of another state which is investigating or treating a child named in a report as having been abused or to which is investigating or treating a person named as having abused a child.
- (4A) To a public or licensed child placing agency of another state responsible for an adoptive or foster care preplacement or placement evaluation.
 - Sec. 16. Section 235A.15, subsection 2, paragraph e, subparagraph (9), Code 1995, is amended to read as follows:
- (9) To a legally constituted child protection agency in another state if the agency is conducting a records check of a person who is providing care or has applied to provide care to a child in the other state.
 - Sec. 17. Section 235C.3, subsection 3, Code 1995, is amended to read as follows:
- 3. IDENTIFICATION. The council shall develop recommendations regarding state programs or policies to increase the accuracy of the identification of chemically exposed infants and children.
 - Sec. 18. Section 237.15, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:
- "Case permanency plan" means the plan, mandated by Pub. L. No. 96-272, as codified in 42 U.S.C., §§ 671(a)(116), 627(a)(2)(B), and 675(1),(5), which is designed to achieve placement in the least restrictive, most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. The plan shall specifically include all of the following:
 - Sec. 19. Section 237.15, subsection 1, Code 1995, is amended by adding the following new paragraph:
- NEW PARAGRAPH. j. The actions expected of the parent, guardian, or custodian in order for the agency to recommend that the court terminate a dispositional order for the child's out-of-home placement and for the agency to end its involvement with the child and the child's family.
 - Sec. 20. Section 273.2, subsection 1, Code 1995, is amended to read as follows:

KE

1. In-service training programs for employees of school districts and area education agencies, provided at the time programs and services are established they do not duplicate programs and services available in that area from the universities under the state board of regents and from other universities and four-year institutions of higher education in Iowa. The in-service training programs shall include but are not limited to regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.

Sec. 21. Section 598.8, Code 1995, is amended to read as follows:

598.8 HEARINGS.

Hearings for dissolution of marriage shall be held in open court upon the oral testimony of witnesses, or upon the depositions of such witnesses taken as in other equitable actions or taken by a commissioner appointed by the court. However, the court may in its discretion close the hearing. Hearings held for the purpose of determining child custody may be limited in attendance by the court. Upon request of either party, the court shall provide security in the courtroom during the custody hearing if a history of domestic abuse relating to either party exists.

Sec. 22. Section 598.41, subsections 1 and 2, Code 1995, are amended to read as follows:

1. a. The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have separated or dissolved the marriage, and which will encourage parents to share the rights and responsibilities of raising the child unless direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result from such contact with one parent, and which will encourage parents to share the rights and responsibilities of raising the child.

b. Notwithstanding paragraph "a", if the court finds that a history of domestic abuse exists, a rebuttable presumption against the awarding of joint custody exists.

c. The court shall consider the denial by one parent of the child's opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement. Just cause may include a determination by the court pursuant to subsection 3, paragraph "j", that a history of domestic abuse exists between the parents.

d. If a history of domestic abuse exists as determined by a court pursuant to subsection 3, paragraph "j", and if a parent who is a victim of such domestic abuse relocates or is absent from the home based upon the fear of or actual acts or threats of domestic abuse perpetrated by the other parent, the court shall not consider the relocation or absence of that parent as a factor against that parent in the awarding of custody or visitation.

e. Unless otherwise ordered by the court in the custody decree, both parents shall have legal access to information concerning the child, including but not limited to medical, educational and law enforcement records.

2. a. On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody.

<u>b.</u> If the court does not grant joint custody under this subsection, the court shall cite clear and convincing evidence, pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest of the child to the extent that the legal custodial relationship between the child and a parent should be severed.

c. A finding by the court that a history of domestic abuse exists, as specified in subsection 3, paragraph "j", which is not rebutted, shall outweigh consideration of any other factor specified in subsection 3 in determination of the awarding of custody under this subsection.

d. Before ruling upon the joint custody petition in these cases, unless the court determines that a history of domestic abuse exists as specified in subsection 3, paragraph "j", or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, the court may require the parties to participate in custody mediation counseling to determine whether joint custody is in the best interest of the child. The court may require the child's participation in the mediation counseling insofar as the court determines the child's participation is advisable.

e. The costs of custody mediation counseling shall be paid in full or in part by the parties and taxed as court costs. Sec. 23. Section 598.41, subsection 3, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Whether a history of domestic abuse, as defined in section 236.2, exists. In determining whether a history of domestic abuse exists, the court's consideration shall include but is not limited to, commencement of an action pursuant to section 236.3, the issuance of a protective order against the parent or the issuance of a court order or consent agreement pursuant to section 236.5, the issuance of an emergency order pursuant to section 236.6, the holding of a parent in contempt pursuant to section 236.8, the response of a peace officer to the scene of alleged domestic abuse or the arrest of a parent following response to a report of alleged domestic abuse, or a conviction for domestic abuse assault pursuant to section 708.2A.

Sec. 24. Section 598.41, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If an application for modification of a decree or a petition for modification of an order is filed, based upon differences between the parents regarding the custody arrangement established under the decree or order,

unless the court determines that a history of domestic abuse exists as specified in subsection 3, paragraph "j", or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, the court may require the parents to participate in mediation to attempt to resolve the differences between the parents.

Sec. 25. Section 600A.5, subsection 3, paragraph c, Code 1995, is amended to read as follows:

c. A plain statement of the facts and grounds in section 600A.8, subsections 1 to 4, which indicate that the parent-child relationship should be terminated.

Sec. 26. Section 600A.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Both of the following circumstances apply to a parent:

- a. The parent has been determined to be a chronic substance abuser as defined in section 125.2 and the parent has committed a second or subsequent domestic abuse assault pursuant to section 708.2A.
- b. The parent has abducted the child, has improperly removed the child from the physical custody of the person entitled to custody without the consent of that person, or has improperly retained the child after a visit or other temporary relinquishment of physical custody.

Sec. 27. Section 600B.40, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In determining the visitation or custody arrangements of a child born out of wedlock, if a judgment of paternity is entered and the mother of the child has not been awarded sole custody, section 598.41 shall apply to the determination, as applicable, and the court shall consider the factors specified in section 598.41, subsection 3, including but not limited to the factor related to a parent's history of domestic abuse.

Sec. 28. Section 602.1203, Code 1995, is amended to read as follows:

602.1203 PERSONNEL CONFERENCES.

The chief justice may order conferences of judicial officers or court employees on matters relating to the administration of justice or the affairs of the department. For judges and other court employees who handle cases involving children and family law, the chief justice shall require regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.

Sec. 29. APPLICABILITY AND EFFECTIVE DATE. Section 9 of this Act, enacting section 232.106, being deemed of immediate importance, takes effect upon enactment and applies to medically relevant tests performed on or after the effective date of this Act pursuant to court orders imposing terms and conditions which are in effect on or after the effective date of this Act.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT

I hereby certify that this bill originated in the Senate and is known as Senate File 150, Seventy-sixth General Assembly.

JOHN F. DWYER Secretary of the Senate

Speaker Of the House

Approved , 1995

TERRY E. BRANSTAD Governor

AN ACT

ENHANCING THE PENALTIES FOR A THIRD OR SUBSEQUENT OFFENSE OF DOMESTIC ABUSE ASSAULT, REQUIRING COUNTY ATTORNEYS TO PROSECUTE CERTAIN DOMESTIC ABUSE MISDEMEANORS, GIVING DISTRICT ASSOCIATE JUDGES JURISDICTION TO ENTER ORDERS OF PROTECTION IN CERTAIN DOMESTIC ABUSE MATTERS, AND ESTABLISHING A PILOT PROGRAM FOR DOMESTIC ABUSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 331.756, subsection 4, Code Supplement 1995, is amended to read as follows:

4. Prosecute misdemeanors under chapter 236. The county attorney shall prosecute other misdemeanors when not otherwise engaged in the performance of other official duties.

Sec. 2. Section 602.6306, subsection 2, Code 1995, is amended to read as follows:

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed ten thousand dollars, jurisdiction over involuntary commitment, treatment, or hospitalization proceedings under chapters 125 and 229, jurisdiction of indictable misdemeanors, and felony violations of section 321J.2, jurisdiction to enter a temporary or emergency order of protection under chapter 236, and to make court appointments and set hearings in criminal matters, jurisdiction to enter orders in probate which do not require notice and hearing and to set hearings in actions under chapter 633, and the jurisdiction provided in section 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

Sec. 3. Section 708.2A, Code Supplement 1995, is amended to read as follows:

708.2A DOMESTIC ABUSE ASSAULT — MANDATORY MINIMUMS, PENALTIES ENHANCED — EXTENSION OF NO-CONTACT ORDER.

- 1. For the purposes of this chapter, "domestic abuse assault" means an assault, as defined in section 708.1, which is domestic abuse as defined in section 236.2.
 - 2. On a first offense of domestic abuse assault, the person commits:
 - a. A simple misdemeanor for a domestic abuse assault, except as otherwise provided.
 - b. A serious misdemeanor, if the domestic abuse assault causes bodily injury or mental illness.
- c. An aggravated misdemeanor, if the domestic abuse assault is committed with the intent to inflict a serious injury upon another, or if the person uses or displays a dangerous weapon in connection with the assault. This paragraph does not apply if section 708.6 or 708.8 applies.
- 3. Except as otherwise provided in subsection 2, on a second or subsequent domestic abuse assault, a person commits:
- a. A serious misdemeanor, if the first offense was classified as a simple misdemeanor, and the second offense would otherwise be classified as a simple misdemeanor.
- b. An aggravated misdemeanor, if the first offense was classified as a simple or aggravated misdemeanor, and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated misdemeanor, and the second offense would otherwise be classified as a simple or serious misdemeanor.
 - 4. On a third or subsequent offense of domestic abuse assault, a person commits a class "D" felony.
- 5. a. A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than six years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.
- <u>b.</u> For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of section 708.2 or this section, which were issued on domestic abuse assaults, and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.
 - c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

4: 6. a. A person convicted of violating this section subsection 2 or 3 shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. The court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence. This section does not prohibit the court from sentencing and the defendant from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the defendant has not previously received a deferred sentence or judgment for a violation of section 708.2 or this section which was issued on a domestic abuse assault. However, once the defendant has received one deferred sentence or judgment involving a violation of section 708.2 or this section which was issued on a domestic abuse assault, the defendant shall not be eligible to receive another deferred sentence or judgment for a violation of this section.

b. A person convicted of violating subsection 4 shall be sentenced to a term of not less than one year and committed to the custody of the director of the department of corrections, and assessed a fine of not less than seven hundred fifty dollars. Notwithstanding section 901.5, subsection 3, and section 907.3, subsection 3, the sentence cannot be suspended: however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.

5. 7. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 236.14, regardless of whether the defendant is placed on probation.

6. 8. The clerk of the district court shall provide notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications of the judgment in the same manner.

7. 9. In addition to the mandatory minimum term of confinement imposed by this section subsection 6, paragraph "a", the court shall order the a defendant convicted under subsection 2 or 3 to participate in a batterers' treatment program as required under section 708.2B. In addition, as condition of deferring judgment or sentence pursuant to section 907.3, the court shall order the defendant to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.

Sec. 4. Section 907.3, subsection 3, Code Supplement 1995, is amended to read as follows:

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A, subsection 6, paragraph "a", or a sentence imposed under section 708.2A, subsection 6, paragraph "b", and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.

Sec. 5. DOMESTIC ABUSE TREATMENT PILOT PROGRAM. Notwithstanding section 708.2A, a court, located in a county which has been designated by the supreme court as a county establishing an alternative batterers' treatment pilot program, shall sentence a person who pleads guilty to or is convicted of domestic abuse assault under section 708.2A to either a batterers' treatment program under section 708.2B or the alternative batterers' pilot program established in the county.

The judicial district in which the county is located shall report to the general assembly not later than January 15 of each year regarding the alternative batterers' pilot program. The judicial district shall submit a final report not later than August 1, 1998, regarding the pilot program.

This section is repealed effective June 30, 1998, except that the date for submission of the final report shall remain August 1, 1998.

LEONARD L. BOSWELL President of the Senate

RON J. CORBETT Speaker of the House

22

Assembly.	in the Senate and is known as Senate File 2209, Seventy-sixth General
	JOHN F. DWYER Secretary of the Senate

Approved _______, 1996

TERRY E. BRANSTAD Governor

CHAPTER 13

ATTORNEY GENERAL

13.2 Duties.

It shall be the duty of the attorney general, except as otherwise provided by law to:

- 1. Prosecute and defend all causes in the appellate courts in which the state is a party or interested.
- 2. Prosecute and defend in any other court or tribunal, all actions and proceedings, civil or criminal, in which the state may be a party or interested, when, in the attorney general's judgment, the interest of the state requires such action, or when requested to do so by the governor, executive council, or general assembly.
- Prosecute and defend all actions and proceedings brought by or against any state officer in the officer's official capacity.
- 4. Give an opinion in writing, when requested, upon all questions of law submitted by the general assembly or by either house thereof, or by any state officer, elective or appointive. Questions submitted by state officers must be of a public nature and relate to the duties of such officer.
 - 5. Prepare drafts for contracts, forms, and other writings which may be required for the use of the state.
- Report to the governor, at the time provided by law, the condition of the attorney general's office, opinions rendered, and business transacted of public interest.
- 7. Supervise county attorneys in all matters pertaining to the duties of their offices, and from time to time to require of them reports as to the condition of public business entrusted to their charge.
 - 8. Promptly account, to the treasurer of state, for all state funds received by the attorney general.
- 9. Keep in proper books a record of all official opinions, and a register of all actions, prosecuted and defended by the attorney general, and of all proceedings had in relation thereto, which books shall be delivered to the attorney general's successor.
 - 10. Perform all other duties required by law.
- 11. Inform prosecuting attorneys and assistant prosecuting attorneys to the state of all changes in law and matters pertaining to their office and establish programs for the continuing education of prosecuting attorneys and assistant prosecuting attorneys. The attorney general may accept funds, grants and gifts from any public or private source which shall be used to defray the expenses incident to implementing duties under this subsection.
- 12. Establish and administer, in cooperation with the law schools of Drake university and the state university of Iowa, a prosecutor intern program incorporating the essential elements of the pilot program denominated "law student intern program in prosecutors' office" funded by the Iowa crime commission and participating counties. The attorney general shall consult with an advisory committee including representatives of each participating law school and the Iowa county attorneys association, inc. concerning development, administration, and critique of this program. The attorney general shall report on the program's operation annually to the general assembly and the supreme court.
- 13. Develop written procedures and policies to be followed by prosecuting attorneys in the prosecution of domestic abuse cases under chapters 236 and 708.

95 Acts, ch 180, §1

NEW subsection 13

CHAPTER 236

DOMESTIC ABUSE

236.2 Definitions.

For purposes of this chapter, unless a different meaning is clearly indicated by the context:

- 1. "Department" means the department of justice.
- 2. "Domestic abuse" means committing assault as defined in section 708.1 under any of the following circumstances:
 - a. The assault is between family or household members who resided together at the time of the assault.
- b. The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.
- c. The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.
 - d. The assault is between persons who have been family or household
- members residing together within the past year and are not residing together at the time of the assault.
- 3. "Emergency shelter services" include, but are not limited to, secure crisis shelters or housing for victims of domestic abuse.
- 4. a. "Family or household members" means spouses, persons cohabiting, parents, or other persons related by consanguinity or affinity.
- b. "Family or household members" does not include children under age eighteen of persons listed in paragraph "a".
 - 5. "Pro se" means a person proceeding on the person's own behalf without legal representation.
- 6. "Support services" include, but are not limited to, legal services, counseling services, transportation services, child care services, and advocacy services.

95 Acts, ch 180, §7

For definition of "plaintiff", see §236.3, subsection 2

Subsection 4 amended

236.3 Commencement of actions-waiver to juvenile court.

A person, including a parent or guardian on behalf of an unemancipated minor, may seek relief from domestic abuse by filing a verified petition in the district court. Venue shall lie where either party resides. The petition shall state the:

- 1. Name of the plaintiff and the name and address of the plaintiff's attorney, if any. If the plaintiff is proceeding pro se, the petition shall state a mailing address for the plaintiff.
- 2. If the petition is being filed on behalf of an unemancipated minor, the name of the parent or guardian filing the petition and the parent's or guardian's address. For the purposes of this chapter, "plaintiff includes a person filing an action on behalf of an unemancipated minor.
 - 3. Name and address, if known, of the defendant.
 - 4. Relationship of the plaintiff to the defendant.
 - 5. Nature of the alleged domestic abuse.
 - 6. Name and age of each child under eighteen whose welfare may be affected by the controversy.
 - 7. Desired relief, including a request for temporary or emergency orders.

If the plaintiff files an affidavit stating that the plaintiff does not have sufficient funds to pay the cost of filing and service, the petition shall be filed and service shall be made without payment of costs. If a petition is filed and service is made without payment of costs, the court shall determine at the hearing if the payment of costs would prejudice the plaintiff's financial ability to provide economic necessities for the plaintiff or the plaintiff's dependents. If the court finds that the payment of costs would not prejudice the plaintiffs financial ability to provide economic necessities for the plaintiff or the plaintiff's dependents, the court may order the plaintiff to pay the costs of filing and service. However, in making the determinations, the court shall not consider funds no longer available to the plaintiff as a result of the commencement of the action.

If the person against whom relief from domestic abuse is being sought is seventeen years of age or younger, the district court shall waive its jurisdiction over the action to the juvenile court.

95 Acts, ch 180, §8-10

Unnumbered paragraph 1 amended

NEW subsection 2 and former subsections 2-6 renumbered as 3-7

NEW unnumbered paragraph 3

236.5 Disposition.

Upon a finding that the defendant has engaged in domestic abuse:

- 1. The court may order that the plaintiff, the defendant, and the children who are members of the household receive professional counseling, either from a private source approved by the court or from a source appointed by the court. Costs of counseling shall be paid in full or in part by the parties and taxed as court costs. If the court determines that the parties are unable to pay the costs, they may be paid in full or in part from the county treasury.
- 2. The court may grant a protection order or approve a consent agreement which may contain but is not limited to any of the following provisions:
 - a. That the defendant cease domestic abuse of the plaintiff.
- b. That the defendant grant possession of the residence to the plaintiff to the exclusion of the defendant or that the defendant provide suitable alternate housing for the plaintiff.
 - c. That the defendant stay away from the plaintiff's residence, school or place of employment.
- d. The awarding of temporary custody of or establishing temporary visitation rights with regard to children under eighteen. In awarding temporary custody or temporary visitation rights, the court shall give primary consideration to the safety of the victim and the children. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court shall also investigate whether any other existing orders awarding custody or visitation rights should be modified.
- e. That the defendant pay the clerk a sum of money for the separate support and maintenance of the plaintiff and children under eighteen.

An order for counseling, a protection order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend its order or a consent agreement at any time upon a petition filed by either party and after notice and hearing.

The order shall state whether a person is to be taken into custody by a peace officer for a violation of the terms stated in the order.

- 3. The court may order that the defendant pay the plaintiff's attorneys fees and court costs.
- 4. An order or consent agreement under this section shall not affect title to real property.
- 5. A certified copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant and the county sheriff having jurisdiction to enforce the order or consent agreement, and the twenty-four hour dispatcher for the county sheriff. Any subsequent amendment or-revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and the county sheriff previously notified. The clerk shall notify the county sheriff and the twenty-four hour dispatcher for the county sheriff in writing so that the county sheriff and the county sheriff's dispatcher receive written notice within six hours of filing the order, approved consent agreement, amendment, or revocation. The clerk may fulfill this requirement by sending the notice by facsimile or other electronic transmission which reproduces the notice in writing within six hours of filing the order. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four hour dispatcher for the law enforcement agencies upon notification by the clerk. The clerk shall send or deliver a written copy of any such document to the law enforcement agencies and the twenty-four hour dispatcher within twenty-four hours of filing the document.

95 Acts, ch 180, §11

For restrictions concerning issuance of mutual protective orders, see §236.20

NEW subsection 3 and former subsections 3 and 4 renumbered as 4 and 5

236.8 Violation of order--contempt--penalties--hearings.

A person commits a simple misdemeanor or the court may hold a person in contempt for a violation of an order or court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault. If convicted or held in contempt, the defendant shall serve a jail sentence. Any jail sentence of more than one day imposed under this section shall be served on consecutive days. A defendant who is held in contempt or convicted may be ordered by the court to pay the plaintiff's attorneys fees and court costs incurred in the proceedings under this section.

A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court.

A person shall not be convicted of and held in contempt for the same violation of an order or court approved consent agreement entered under this chapter, for the same violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault.

95 Acts, ch 180, §12

Section amended

100

236.19 Foreign protective orders--registration--enforcement.

- 1. As used in this section, "foreign protective order" means a protective order entered in a state other than Iowa which would be an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Iowa.
- 2. A copy of a foreign protective order authenticated in accordance with the statutes of this state may be filed with the clerk of the district court of the county in which the person in whose favor the order was entered resides. The clerk shall provide copies of the order as required by section 236.5.
- A foreign protective order so filed has the same effect and shall be enforced in the same manner as a protective order issued in this state.

95 Acts, ch 180,§13

NEW section

236.20 Mutual protective orders prohibited--exceptions.

A court in an action under this chapter shall not issue mutual protective orders against the victim and the abuser unless both file a petition requesting a protective order.

95 Acts, ch 180, §14

NEW section

CHAPTER 598

598.41 Custody of children.

- 1. a. The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have separated or dissolved the marriage, and which will encourage parents to share the rights and responsibilities of raising the child unless direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result from such contact with one parent.
- b. Notwithstanding paragraph "a", if the court finds that a history of domestic abuse exists, a rebuttable presumption against the awarding of joint custody exists.
- c. The court shall consider the denial by one parent of the child's opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement. Just cause may include a determination by the court pursuant to subsection 3, paragraph "j", that a history of domestic abuse exists between the parents.
- d. If a history of domestic abuse exists as determined by a court pursuant to subsection 3, paragraph "j", and if a parent who is a victim of such domestic abuse relocates or is absent from the home based upon the fear of or actual acts or threats of domestic abuse perpetrated by the other parent, the court shall not consider the relocation or absence of that parent as a factor against that parent in the awarding of custody or visitation.
- e. Unless otherwise ordered by the court in the custody decree, both parents shall have legal access to information concerning the child, including but not limited to medical, educational and law enforcement records.
- 2. a. On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody.
- b. If the court does not grant joint custody under this subsection, the court shall cite clear and convincing evidence, pursuant to the factors in subsection 3, that joint custody is unreasonable and not in the best interest of the child to the extent that the legal custodial relationship between the child and a parent should be severed.
- c. A finding by the court that a history of domestic abuse exists, as specified in subsection 3, paragraph "j", which is not rebutted, shall outweigh consideration of any other factor specified in subsection 3 in the determination of the awarding of custody under this subsection.
- d. Before ruling upon the joint custody petition in these cases, unless the court determines that a history of domestic abuse exists as specified in subsection 3, paragraph "j", or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, the court may require the parties to participate in custody mediation to determine whether joint custody is in the best interest of the child. The court may require the child's participation in the mediation insofar as the court determines the child's participation is advisable.
 - e. The costs of custody mediation shall be paid in full or in part by the parties and taxed as court costs.
- 3. In considering what custody arrangement under subsection 2 is in the best interest of the minor child, the court shall consider the following factors:
 - a. Whether each parent would be a suitable custodian for the child.
- b. Whether the psychological and emotional needs and development of the child will suffer due to lack of active contact with and attention from both parents.
 - c. Whether the parents can communicate with each other regarding the child's needs.
 - d. Whether both parents have actively cared for the child before and since the separation.
 - e. Whether each parent can support the other parent's relationship with the child.
- f. Whether the custody arrangement is in accord with the child's wishes or whether the child has strong opposition, taking into consideration the child's age and maturity.
 - g. Whether one or both the parents agree or are opposed to joint custody.
 - h. The geographic proximity of the parents.
- i. Whether the safety of the child, other children, or the other parent will be jeopardized by the awarding of joint custody or by unsupervised or unrestricted visitation.
- j. Whether a history of domestic abuse, as defined in section 236.2, exists. In determining whether a history of domestic abuse exists, the court's consideration shall include, but is not limited to, commencement of an action pursuant to section 236.3, the issuance of a protective order against the parent or the issuance of a court order or consent agreement pursuant to section 236.5, the issuance of an emergency order pursuant to section 236.6, the holding of a parent in contempt pursuant to section 236.8, the response of a peace officer to the scene of alleged domestic abuse or the arrest of a parent following response to a report of alleged domestic abuse, or a conviction for domestic abuse assault pursuant to section 708.2A.
 - 4. Subsection 3 shall not apply when parents agree to joint custody.

5. Joint legal custody does not require joint physical care. When the court determines such action would be in the best interest of the child, physical care may be given to one joint custodial parent and not to the other. If one joint custodial parent is awarded physical care, the court shall hold that parent responsible for providing for the best interest of the child. However, physical care given to one parent does not affect the other parent's rights and responsibilitie as a legal custodian of the child. Rights and responsibilities as legal custodian of the child include, but are not limited to, equal participation in decisions affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

6. When the parent awarded custody or physical care of the child cannot act as custodian or caretaker because the parent has died or has been judicially adjudged incompetent, the court shall award custody including physical care of the

child to the surviving parent unless the court finds that such an award is not in the child's best interest.

7. If an application for modification of a decree or a petition for modification of an order is filed, based upon differences between the parents regarding the custody arrangement established under the decree or order, unless the court determines that a history of domestic abuse exists as specified in subsection 3, paragraph "j", or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, the court may require the parents to participate in mediation to attempt to resolve the differences between the parents.

95 Acts, ch 182, §22-24; 95 Acts, ch 183, §2

See Code editor's note to §13B.8 Subsections 1 and 2 amended Subsection 3, NEW paragraph j NEW subsection 7

CHAPTER 708

708.2B Treatment of domestic abuse offenders.

As used in this section, "district department" means a judicial district department of correctional services, established pursuant to section 905.2. A person convicted of, or receiving a deferred judgment for, domestic abuse assault shall report to the district department in order to participate in a batterers' treatment program for domestic abuse offenders. Participation in the batterers' treatment program shall not require a person to be placed on probation, but a person on probation may participate in the program. The district departments may contract for services in completing the duties relating to the batterers' treatment programs. The district departments shall assess the fees for participation in the program, and shall either collect or contract for the collection of the fees to recoup the costs of treatment, but may waive the fee or collect a lesser amount upon a showing of cause. The fees shall be used by each of the district departments or contract service providers for the establishment, administration, coordination, and provision of direct services of the batterers' treatment programs.

District departments or contract service providers shall receive upon request peace officers' investigative reports regarding persons participating in programs under this section. The receipt of reports under this section shall not waive the confidentiality of the reports under section 22.7.

95 Acts, ch 180, §15

NEW unnumbered paragraph 2

10.00

CHAPTER 1131

DOMESTIC ABUSE

S.F. 2269

AN ACT enhancing the penalties for a third or subsequent offense of domestic abuse assault, requiring county attorneys to prosecute certain domestic abuse misdemeanors, giving district associate judges jurisdiction to enter orders of protection in certain domestic abuse matters, and establishing a pilot program for domestic abuse.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 331.756, subsection 4, Code Supplement 1995, is amended to read as follows:

Prosecute misdemeanors under chapter 236. The county attorney shall prosecute other misdemeanors when not
otherwise engaged in the performance of other official duties.

Sec. 2. Section 602.6306, subsection 2, Code 1995, is amended to read as follows:

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed ten thousand dollars, jurisdiction over involuntary commitment, treatment, or hospitalization proceedings under chapters 125 and 229, jurisdiction of indictable misdemeanors, and felony violations of section 321J.2, jurisdiction to enter a temporary or emergency order of protection under chapter 236, and to make court appointments and set hearings in criminal matters, jurisdiction to enter orders in probate which do not require notice and hearing and to set hearings in actions under chapter 633, and the jurisdiction provided in section 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

Sec. 3. Section 708.2A, Code Supplement 1995, is amended to read as follows:

708.2A DOMESTIC ABUSE ASSAULT -- MANDATORY MINIMUMS, PENALTIES ENHANCED -- EXTENSION OF NO-CONTACT ORDER.

- 1. For the purposes of this chapter, "domestic abuse assault" means an assault, as defined in section 708.1, which is domestic abuse as defined in section 236.2.
 - 2. On a first offense of domestic abuse assault, the person commits:
 - a. A simple misdemeanor for a domestic abuse assault, except as otherwise provided.
 - b. A serious misdemeanor, if the domestic abuse assault causes bodily injury or mental illness.
- c. An aggravated misdemeanor, if the domestic abuse assault is committed with the intent to inflict a serious injury upon another, or if the person uses or displays a dangerous weapon in connection with the assault. This paragraph does not apply if section 708.6 or 708.8 applies.
- 3. Except as otherwise provided in subsection 2, on a second or subsequent domestic abuse assault, a person commits:
- a. A serious misdemeanor, if the first offense was classified as a simple misdemeanor, and the second offense would otherwise be classified as a simple misdemeanor.
- b. An aggravated misdemeanor, if the first offense was classified as a simple or aggravated misdemeanor, and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated misdemeanor, and the second offense would otherwise be classified as a simple or serious misdemeanor.
 - 4. On a third or subsequent offense of domestic abuse assault, a person commits a class "D" felony.
- 5. a. A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than six years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.
- b. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of section 708.2 or this section, which were issued on domestic abuse assaults, and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

- c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.
- 4. 6. a. A person convicted of violating this section subsection 2 or 3 shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. The court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence. This section does not prohibit the court from sentencing and the defendant from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the defendant has not previously received a deferred sentence or judgment for a violation of section 708.2 or this section which was issued on a domestic abuse assault. However, once the defendant has received one deferred sentence or judgment involving a violation of section 708.2 or this section which was issued on a domestic abuse assault, the defendant shall not be eligible to receive another deferred sentence or judgment for a violation of this section.

b. A person convicted of violating subsection 4 shall be sentenced to a term of not less than one year and committed to the custody of the director of the department of corrections, and assessed a fine of not less than seven hundred fifty dollars. Notwithstanding Section 901 5, subsection 3, and section 907.3, subsection 3, the sentence cannot be suspended; however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.

- 5. 7. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 236.14, regardless of whether the defendant is placed on probation.
- 6. 8. The clerk of the district court shall provide notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications of the judgment in the same manner.
- 7.9. In addition to the mandatory minimum term of confinement imposed by this section subsection 6, paragraph "a", the court shall order the a defendant convicted under subsection 2 or 3 to participate in a batterers' treatment program as required under section 708.2B. In addition, as a condition of deferring judgment or sentence pursuant to section 907.3, the court shall order the defendant to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.
 - Sec. 4. Section 907.3, subsection 3, Code Supplement 1995, is amended to read as follows:
- 3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A, subsection 6, paragraph "a", or a sentence imposed under section 708.2A, subsection 6, paragraph "b", and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.
- Sec. 5. DOMESTIC ABUSE TREATMENT PILOT PROGRAM. Notwithstanding section 708.2A, a court, located in a county which has been designated by the supreme court as a county establishing an alternative batterers' treatment pilot program, shall sentence a person who pleads guilty to or is convicted of domestic abuse assault under section 708.2A to either a batterers' treatment program under section 708.2B or the alternative batterers' pilot program established in the county.

The judicial district in which the county is located shall report to the general assembly not later than January 15 of each year regarding the alternative batterers' pilot program. The judicial district shall submit a final report not later than August 1, 1998, regarding the pilot program.

This section is repealed effective June 30, 1998, except that the date for submission of the final report shall remain August 1, 1998.

Approved April 17, 1996

500

3 1723 02049 6352