

Fact Sheet: Domestic Violence Court Compliance Monitoring

Judicial monitoring is one of the cornerstones of the domestic violence court model and can help courts work toward victim safety and offender accountability, including compliance with court orders. Research indicates that on-going judicial supervision, in conjunction with specialized probation supervision of offenders in the community, can positively affect the behavior of batterers and keep them from re-offending, at least during the pendency of the case.¹

How Compliance Monitoring Works

Typically, compliance monitoring involves bringing defendants back to court post-plea/post-disposition to ensure adherence to court-ordered conditions, such as orders of protection or batterer program mandates. Consequences for failure to comply with these conditions are explained to the defendant at the time of plea/disposition and at all subsequent compliance dates. In addition, some domestic violence courts require defendants to appear for compliance hearings during the pendency of their cases as a condition of bail. It should be noted that courts may monitor defendants that are not sentenced to a program. For example, judges can bring defendants back to court to check for any new arrests and assess compliance with the order of protection.

Consistency and Accountability

Holding regular compliance hearings sends the message to defendants that the court takes domestic violence crimes seriously and is informed about defendants' behavior, and that non-compliance with court orders and mandated programs will be met with swift sanctions. Communicating to each defendant, through words and actions, that the court will not tolerate battering and that the court is watching is important to promoting the principle of accountability. Judges can further this goal by maintaining a formal judicial demeanor and by

acknowledging compliance with court mandates without offering congratulations.

Frequency

Compliance monitoring can take several forms depending on court caseload. In certain high volume courts, a separate compliance court is held a few days a week and is presided over by a Judicial Hearing Officer, in some cases a retired judge or magistrate. Courts with medium volume may dedicate a half day, once a week, to the compliance calendar, which is overseen by the domestic violence court judge. Courts with lower caseloads might hold the compliance calendar twice a month at the beginning of the general domestic violence court calendar.

Defendants who are not in compliance are often scheduled to appear at the beginning of the compliance calendar, which allows other defendants to observe the imposition of sanctions such as brief jail sentences and defendants being required to sit in the courtroom. Noncompliant defendants are also asked to appear for monitoring more frequently, perhaps weekly. Defendants who are in compliance with all conditions for several months may be permitted to come to court less frequently – tailoring the frequency of court appearances to a defendant's compliance is called graduated monitoring, and is an effective sanction and reward for the court.

Planning for Effective Compliance Monitoring

Domestic violence court planning groups are encouraged to discuss compliance monitoring with stakeholders (especially probation), create interagency compliance monitoring protocols and procedures, and incorporate these into their domestic violence court planning documents and operations. At a minimum, each domestic violence court should:

- Identify appropriate program mandates, such as batterer intervention and substance abuse treatment programs. Anger management and couples counseling programs are inappropriate for domestic violence cases and should not be ordered by the court;
- Ensure that batterer programs have appropriate consequences in place for non-compliance, and that alternate sanctions (such as jail) are used in response to attendance policy non-compliance to ensure that the defendant is not being sent back to a program from which he was expelled;
- Cultivate relationships with local service providers, and ask each program to designate a liaison to the court. If possible, invite a representative from each program to be present when domestic violence court is in session, in order to directly report on defendants' compliance and meet with newly-mandated defendants;
- Create protocols to ensure that programs and probation report accurate information to domestic violence court on a timely basis, including when offenders fail to attend programs or are terminated from programs, as well as violations of probation conditions;
- Establish regular, frequent monitoring dates for all defendants post-conviction, starting within two weeks if possible;
- Develop a sanctioning plan, including the use of graduated sanctions (such as increased frequency of appearances, remand, probation,

more stringent probation conditions, or sitting in the jury box); and

- Determine which types of compliance information the resource coordinator will gather in preparation for each compliance hearing, such as reports from probation and mandated programs, drug test results, information from the victim advocate, and any new police reports or court cases.

Holding Compliance Hearings

At disposition, it is recommended that the judge conduct a detailed allocution and review all conditions of the plea agreement, including the order of protection, any program mandates, and the requisite compliance monitoring. Potential consequences for non-compliance should be clearly delineated, and the message conveyed that the judge and court are watching the defendant closely. Subsequent hearings should entail reviewing each defendant's compliance information and imposing sanctions for non-compliance as indicated, according to the sanctioning plan created by the domestic violence court planning team, as well as restating all plea conditions and reiterating that the court is closely monitoring the defendant.

Examples of compliance monitoring protocols, scripts, forms, and monitoring/sanctioning plans can be obtained from the Center for Court Innovation.

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References

1. Taylor, B.G., Davis, R.C., & Maxwell, C.D. (2001). The effects of a group batterer treatment program in Brooklyn. *Justice Quarterly*, 18, 170-201.