

## Family Intervention Court Program: A Therapeutic Alternative

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### Recommended Citation

Michael, Kathryn () "Family Intervention Court Program: A Therapeutic Alternative," *Ohio Northern University Law Review*: Vol. 41: Iss. 3, Article 11.

Available at: [https://digitalcommons.onu.edu/onu\\_law\\_review/vol41/iss3/11](https://digitalcommons.onu.edu/onu_law_review/vol41/iss3/11)

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## **Family Intervention Court Program: A Therapeutic Alternative**

JUDGE KATHRYN MICHAEL\*

### I. INTRODUCTION

Domestic violence is a legal issue. Once brought to the attention of police, a domestic violence case is handled in the court system like any other criminal case. There is nothing unfamiliar about the process that a domestic violence case takes on a regular docket of the court system, but domestic violence is different from other charges in some very significant ways.

Domestic violence is also a social issue, an employment issue, and a family issue. It knows no boundaries in terms of race, gender, socioeconomic status, religion, nationality, or sexual orientation. It is a subject that is often kept secret as a personal family matter, and, generally, it repeats its pattern over generations. Domestic violence affects every aspect of the lives of family members involved, either as victims, offenders, or observers of violence.

The cycle of violence and the intimate nature of the crime, which is hallmark to this kind of offense, make it difficult to prosecute these types of cases. Family dynamics complicate the discovery of “fair” resolutions in regular court proceedings. In a regular court proceeding, persons convicted of domestic violence are sentenced according to what is perceived as a just “punishment” for committing the offense rather than attempting to determine what might prevent future violence and addressing the underlying causes of the offense.

The Family Intervention Court Program at the Akron Municipal Court takes a different approach. This therapeutic alternative to the traditional court process is designed to address the thinking, behavior, and actions of the offender who commits acts of violence against an intimate partner or other household member, and provides comprehensive treatment services to address the underlying issues that led to the violent offense.

### II. DOMESTIC VIOLENCE IN OHIO

Ohio has codified certain crimes as “domestic violence offenses” when they are perpetrated against family, household members, or intimate

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partners.<sup>1</sup> The most common of such crimes are assault, sexual assault, rape, stalking, and violation of a protection order. Many domestic violence charges are misdemeanor offenses.<sup>2</sup> However, the Ohio Revised Code enhances the level of the offense—and the maximum penalties associated with domestic violence and violation of protection order charges—when the offender has been previously convicted of a domestic violence or violation of a protection order offense.<sup>3</sup> Early intervention in families where domestic violence is an issue occurs at the municipal court level in Ohio, even though the effects of such violence can have a profound effect on the lives of those involved. This is where the best chance for early intervention and future prevention exists.

In 2012, the Ohio Attorney General gathered statistics for all domestic violence 911 calls when domestic violence charges were filed.<sup>4</sup> In 2012, 41,053 domestic violence-related cases were filed in Ohio.<sup>5</sup> In Summit County, Ohio alone, 3,544 domestic violence or domestic violence-related incident reports were filed in 2012.<sup>6</sup> Akron Police Department, the largest police department in the Akron Municipal Court district, filed domestic violence charges in 622 of Summit County's 3,544 calls for service on domestic-related incidents.<sup>7</sup> No charges were filed in 2,105 of these calls.<sup>8</sup> As depicted in Figure 1, the victims of these calls were: Wife (16.72%), Husband (4.91%), Parent (13.06%), Non-spouse with children (14.69%), Child (8.21%), Other Family Member (13.67%), Former Spouse (2.33%), Live-in partner (19.00%), and Other (7.41%).<sup>9</sup>

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1. See OHIO REV. CODE ANN. § 2919.25 (LexisNexis 2015). This section codifies domestic violence offenses as well as other offenses against family or household members.

2. See *id.* at (D)(2).

3. Section 2919.25(D)(3) of the Ohio Revised Code enhances a domestic violence charge to a felony of the fourth degree if the offender charged has a prior conviction for domestic violence. *Id.* at (D)(3). Further, section 2919.25(D)(4) of the Ohio Revised Code elevates the offense to a felony of the third degree with mandatory prison sentence, if the offender knew that the victim was pregnant at the time of the offense. *Id.* at (D)(4).

4. See OHIO ATTORNEY GEN., DOMESTIC VIOLENCE REPORT: DOMESTIC VIOLENCE INCIDENTS BY COUNTY AND AGENCY (Feb. 1, 2013), available at <http://www.ohioattorneygeneral.gov/Law-Enforcement/Services-for-Law-Enforcement/Domestic-Violence-Reports/Domestic-Violence-Reports-2012/2012-Domestic-Violence-Incidents-by-County-and-Age>.

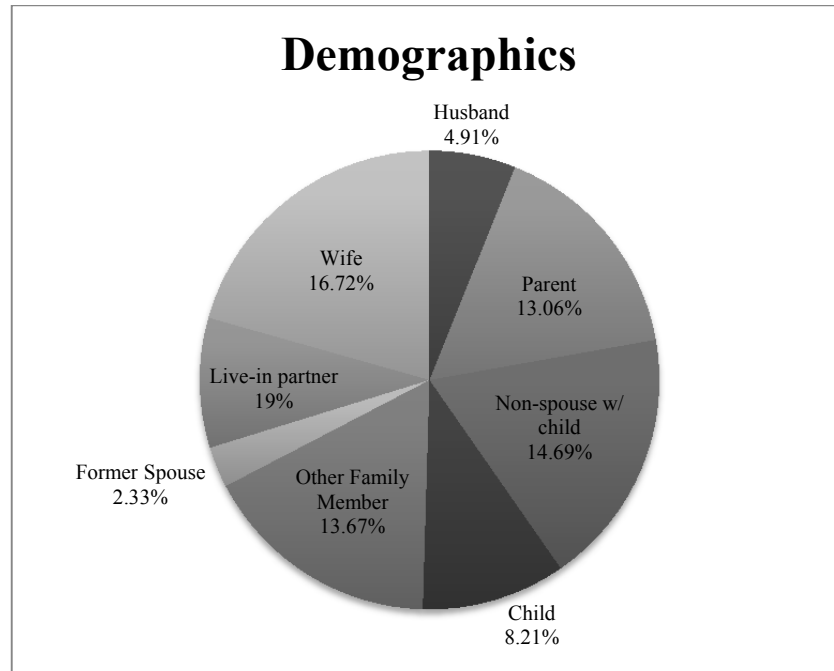
5. *Id.* at 76.

6. *Id.* at 66.

7. *Id.* at 64.

8. *Id.* at 66.

9. OHIO ATTORNEY GEN., DOMESTIC VIOLENCE REPORT: VICTIMS SUMMARY REPORT (Feb. 1, 2013), available at [http://www.ohioattorneygeneral.gov/Law-Enforcement/Services-for-Law-Enforcement/Domestic-Violence-Reports/Domestic-Violence-Reports-2012/2012-Victims-Total-Percentage-\(PDF\)](http://www.ohioattorneygeneral.gov/Law-Enforcement/Services-for-Law-Enforcement/Domestic-Violence-Reports/Domestic-Violence-Reports-2012/2012-Victims-Total-Percentage-(PDF)).

**Figure 1.**

Moreover, in cases filed by the Akron Police Department in 2012, 345 involved African American victims, 267 Caucasian victims, 6 Asian victims, 1 Hispanic victim, 1 Native American victim, and 2 other ethnicity victims.<sup>10</sup>

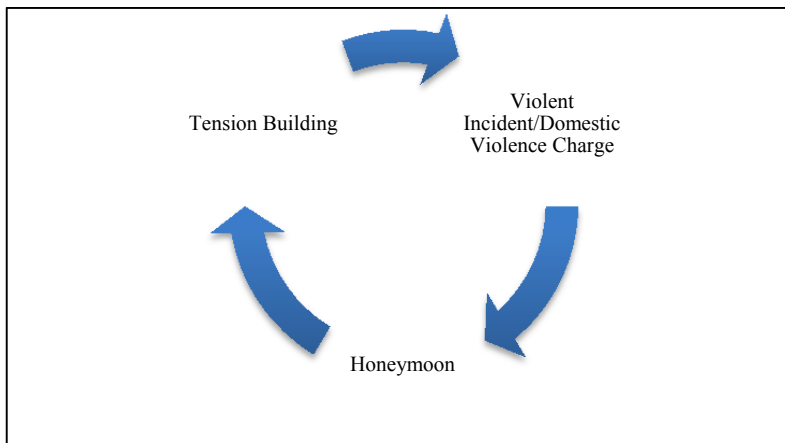
### III. THE CYCLE OF DOMESTIC VIOLENCE

However compelling the statistics, they are not the only reason courts need to focus on domestic violence. Lenore Walker discussed the Cycle of Violence in 1979, with a very simple three-step chart that is still applicable to intimate violence today.<sup>11</sup> The concept is not new, but this cycle of violence, which typically increases in severity with each cycle, effects every aspect of a traditional domestic violence prosecution. As depicted in Figure 2, the cycle generally occurs as follows:

10. OHIO ATTORNEY GEN., DOMESTIC VIOLENCE REPORT: ETHNICITY OF VICTIMS 557-58 (Feb. 1, 2013), available at [http://www.ohioattorneygeneral.gov/Law-Enforcement/Services-for-Law-Enforcement/Domestic-Violence-Reports/Domestic-Violence-Reports-2012/2012-Ethnicity-of-Victims-\(PDF\)](http://www.ohioattorneygeneral.gov/Law-Enforcement/Services-for-Law-Enforcement/Domestic-Violence-Reports/Domestic-Violence-Reports-2012/2012-Ethnicity-of-Victims-(PDF)).

11. See LENORE E. WALKER, *THE BATTERED WOMAN* 65-70 (Harper & Row, 1979).

1. A violent incident occurs, and a domestic violence charge may be filed. Sometimes, families are involved in a cycle of violence without any violent incident being officially reported to the police.
2. The Honeymoon period is where the offender apologizes for the abuse, promises it will never happen again, and the victim may deny that the violence even took place. This is a calm period of time where abuse does not occur.
3. Then the tension starts building again towards another violent incident. The offender begins to get angry, abuse may begin, there is a breakdown of communication, tension builds, and the victim feels like he or she is “walking on eggshells.”
4. Violence occurs again, sometimes escalating in severity, and the cycle begins again.<sup>12</sup>

**Figure 2.**

Most prosecutions for domestic violence occur in the Honeymoon period, making traditional prosecution difficult due to the complicated and intimate nature of the relationship between the parties involved. Often, victims are reluctant to appear as a witness to prosecute the offender during this phase. At this point, an offender and a victim have a co-dependent

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12. *Id.*

relationship, and both offender and victim find it difficult to leave the relationship.<sup>13</sup> Most outsiders have difficulty understanding this cycle and why a domestic violence victim would choose to stay in the relationship. Strong emotional and psychological forces keep the victim tied to the abuser. Sometimes situational realities, such as lack of money, keep the victim from leaving. The reasons for staying vary from one victim to the next.<sup>14</sup>

#### IV. AKRON MUNICIPAL COURT'S FAMILY INTERVENTION COURT PROGRAM

On the regular court docket, a domestic violence case would typically conclude before the cycle starts tension-building towards the next violent incident. Specialty dockets for domestic violence cases, like the Akron Municipal Court's Family Intervention Court Program, address this issue by setting program parameters that require participation over a prolonged period of time, usually a minimum of one year.

There are two reasons why domestic violence should be prioritized in efforts to reform courts in dealing with this crime. First, "domestic violence is rarely a one-time event, and without effective intervention, it typically increases in frequency, and severity over time."<sup>15</sup> Courts are well positioned to offer immediate, strong, and enforceable responses to violence that may make it less likely that further violence will occur. Second, children are often harmed by adults who are battering other adults, and are affected by the violence being directed only at another adult in the family.<sup>16</sup> Without the kind of rapid and comprehensive intervention that domestic violence specialty courts can provide, there is little hope of changing the cycle of violence and stopping intergenerational violence.

While there are some similarities between specialty drug courts and domestic violence specialty courts, there are also some important distinctions to be made.<sup>17</sup> According to Julia Weber, "[b]oth specialty courts represent judicial innovations designed to better respond to significant individual and community problems."<sup>18</sup> Both use a "team approach" involving the judge, prosecutor, defense counsel, treatment or

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13. *See id.*

14. *See id.* at 11.

15. Deborah Epstein, *Effective Intervention in Domestic Violence Cases: Rethinking the Roles of Prosecutors, Judges, and the Court System*, 11 YALE J.L. & FEMINISM 3, 7 (1999).

16. *See id.* at 8.

17. *See* Julia Weber, *Domestic Violence Courts: Components and Considerations*, 2 J. CTR. FOR FAMILIES, CHILD. & CT.'S 23, 24-25 (2000), available at <http://www.courts.ca.gov/documents/023weber.pdf>.

18. *Id.* at 24 (footnote omitted).

intervention provider, and probation or correctional personnel.<sup>19</sup> However, domestic violence specialty courts have unique considerations that must be taken into account in addressing intimate partner abuse and violence:

[I]n domestic violence matters, unlike most drug court cases, the court must contend with both a victim and a perpetrator and, frequently, their children. Knowing this, the judge has the challenge of fashioning a response that holds the perpetrator accountable while simultaneously enhancing the victim's safety, since the litigants may be dependent upon each other for financial support or have reason to be in contact in the future. Treatment programs that address a range of issues are often considered appropriate in drug court and in domestic violence court. However, if a domestic violence court utilizes interventions that focus on treatment at the expense of accountability, it is possible that the dangerousness associated with domestic violence will be minimized.<sup>20</sup>

The Akron Municipal Court's Family Intervention Court Program is able to address both victim safety and offender accountability by providing effective supervision and comprehensive treatment services to those offenders who enter a plea of guilty to a misdemeanor domestic violence charge. An intensive intervention strategy is used, which includes completion of a twenty-six week batterer's intervention program, random or daily drug and/or alcohol testing, regularly scheduled case management sessions, at least one year of probation, and other treatment tailored to the offender that the Family Intervention Court Program team may determine. Failing to comply with program requirements can result in sanctions being imposed on the offender—up to and including termination from the program. Typically, non-compliance results in progressive sanctions designed to encourage compliance. This might entail community service work, electronically monitored house arrest, or jail time. Likewise, when offenders are compliant with programming, they are rewarded in open court, with praise from the judge.

The Family Intervention Court Program at the Akron Municipal Court screened five hundred and sixty-five offenders for the program in 2012. Of those screened, one hundred and eighty-three were found to be eligible for the program. Sixty of the eligible offenders agreed to enter the program.

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19. *Id.* (citing David Rottman & Pamela Casey, *Therapeutic Jurisprudence and the Emergence of Problem-Solving Courts*, 240 NAT'L INST. JUST. J. 12, 15 (July 1999)).

20. *Id.*

The program included sixty-seven active Family Intervention Court Program participants at the end of 2012. This number included participants that remained in the program from 2011. There were sixty-four participants that successfully completed the program in 2012, and only five of those participants that successfully completed the program in 2012 have re-offended with a new domestic violence charge.

The Family Intervention Court Program is an integrative, therapeutic alternative to traditional court practices that fosters partnerships with local community-based agencies. These partnerships are reflected in the make-up of the Family Intervention Court program team members, who are: Judge Kathryn Michael, Judy Wallace as Program Manager, case managers from Oriana House, Inc., a victim's advocate from The Battered Women's Shelter, a representative from Summit Psychological Associates, Inc., domestic violence investigators, Marcus Miller and Sharon Price from the Akron Police Department, Akron City Prosecutor Elisa Hill, and Joseph Kodish from the Summit County Public Defender's Office. By using an integrative strategy program for treatment, the aim is to reduce domestic violence and the risk that the offender poses to the safety of his or her victim, their family, to themselves, and to the community.<sup>21</sup>

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21. For more information about the Akron Municipal Court Family Intervention Court Program, please contact Judge Kathryn Michael at [kmichael@akronohio.gov](mailto:kmichael@akronohio.gov) or Program Manager Judy Wallace at [jwallace@akronohio.gov](mailto:jwallace@akronohio.gov).