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2013

# Research Report

# Exploring Reasonable Efforts in Child Welfare Cases That Include Domestic Violence in Portland, OR

National Council of Juvenile and Family Court Judges

Juvenile Law Programs

October, 2013

NCJFCJ

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## Executive Summary

Many families involved in dependency cases have been profoundly affected by domestic violence (DV). It is important for judges to recognize the unique issues these families often face and to incorporate this knowledge into their decisions. Yet, little research has been conducted to explore how courts respond to juvenile dependency cases involving DV. The current study examined 1) How domestic violence cases are treated in juvenile dependency court and 2) Whether this treatment differs from cases without domestic violence. Using a structured case file review instrument, researchers examined descriptive case information on 49 dependency cases with DV and 48 comparison cases (with no indication of DV) on site at the National Council of Juvenile and Family Court Judges (NCJFCJ) Portland Mentor Model Court. Information collected included petition language regarding domestic violence, specific allegations, court orders, reasonable efforts, and services to all parties.

### Key Findings

- ***Substance abuse was more prevalent among fathers in DV cases than among fathers in non-DV cases.***

- ***Service orders significantly differed for parents in DV and non-DV cases.***
  - **Mothers in DV cases were more likely to be ordered to attend domestic violence counseling.**
  - **Fathers in DV cases were more likely receive orders to complete substance abuse assessment, substance abuse treatment, and batterer intervention programs.**

- ***Reasonable efforts findings and agency efforts to prevent removal and reunify were similar for DV and non-DV cases.***

- ***Agency referrals to domestic violence advocates were only noted in a handful of cases, and there was no indication that DV advocates were present at any of the hearings.***

- ***Case timelines, placements, and outcomes did not differ between DV and non-DV cases.***

Findings demonstrate that the court often recognized DV-related issues in dependency cases and made efforts to address these issues in service orders, though DV and non-DV cases were treated similarly in other respects. The Portland Model Court recently developed action plans to further improve responses to dependency cases with co-occurring domestic violence, which include:

- **Provide training for juvenile defense attorneys on DV in the child welfare arena.**

- **Provide training on oral and written reporting for DV advocates and establish reporting guidelines so that courts and agencies receive more detailed information about the nature and context of domestic violence in dependency cases.**

- **Investigate and potentially implement assessment procedures to identify appropriate interventions for perpetrators.**



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## Introduction

Domestic violence—a pattern of assaultive and coercive behavior that may operate on a physical, psychological, emotional, sexual, or economic level—in the home and child abuse or neglect often co-occur. The precise extent to which this happens is often hard to estimate. Earlier studies have indicated overlaps ranging from 30% to 60%[1], but exact numbers are scarce. National datasets that collect information on child abuse and neglect, such as the Adoption and Foster Care Reporting System, do not identify the occurrence of domestic violence (DV) in the case, making it even more difficult to track. Further, if DV is not listed on the original petition, it may be overlooked in the case.

When DV is identified, either as part of petition allegations against a parent or at a later point during the case, it is important that judges respond to this information in a way that holds the perpetrator of the violence accountable, keeps the victim and children safe, and helps to prevent future violence. Children exposed to DV are at risk for a host of negative social, developmental, and psychological outcomes. For example, childhood exposure to DV has been linked to a reduction in IQ scores,[2] juvenile delinquency,[3] and decreased social competence.[4] In addition, children who witness DV are significantly more likely to develop depression, anxiety, and Post-traumatic Stress Disorder than non-witnesses.[5]

Understanding that such issues exist, there has been an increased awareness regarding the need for training in DV. For example, the Violence Against Women Act of 1994 (VAWA) was re-authorized in 2013. Included in VAWA is funding for DV-related training for criminal justice personnel, including judges. In addition to VAWA, the National Council of Juvenile and Family Court Judges (NCJFCJ) developed the *Reasonable Efforts Checklist for Dependency Cases Involving Domestic Violence* (hereafter *Reasonable Efforts Checklist*) and the *Checklist to Promote Perpetrator Accountability in Dependency Cases Involving Domestic Violence* (hereafter *Accountability Checklist*). These checklists provide information and tools for judges to help facilitate accountability and safety of families involved in child welfare. While tools such as these may be helpful to the courts, little research has been conducted that examines how the courts treat cases when there is DV, or whether this treatment differs from how non-DV cases are treated.

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[1] Osofsky, J. D. (2003). Prevalence of children's exposure to domestic violence and child maltreatment: Implications for prevention and intervention. *Clinical Child and Family Psychology Review*, *6*, 161-170.

[2] Koenen, K. C., Moffitt, T. E., Caspi, A., Taylor, A., & Purcell, S. (2003). Domestic violence is associated with environmental suppression of IQ in young children. *Development and Psychopathology*, *15*, 297-311.

[3] Justice Policy Institute (2010, July). *Healing invisible wounds: Why investing in trauma-informed care for children makes sense*. Retrieved from http://www.justicepolicy.org/images/upload/10-07_REP_HealingInvisibleWounds_JJ-PS.pdf

[4] Kernic, M. A., Wolf, M. E., Holt, V. L., McKnight, B., Huebner, C. E., & Rivara, F. P. (2003). Behavioral problems among children whose mothers are abused by an intimate partner. *Child Abuse and Neglect, 22*, 319-330.

[5] Margolin, G., & Vickerman, K. A. (2007). Post-traumatic stress in children and adolescents exposed to family violence : I. Overview and issues. *Professional Psychology: Research and Practice, 38*, 613-619.



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## Study Overview

Portland, Oregon, a NCJFCJ Victims Act Model Court since 1998, was selected as the study site. The Model Court project focuses on improving the judicial and system-wide response to children and families in the child welfare system to ensure safe, timely, and permanent homes for children. The current study will explore how courts respond to juvenile dependency cases with co-occurring domestic violence in comparison with cases that have no indication of domestic violence.

## Research Questions

The current study was exploratory and primarily descriptive in nature. Two questions were addressed:

1) How are domestic violence cases treated in the juvenile dependency court?

2) Does this treatment differ from cases without domestic violence?

## Method

### Sample

A stratafied sample of 97 cases were selected. To be included in the sample, cases had to have a juvenile dependency petition filed in 2010. As a further stipulation, half of the cases had to include an allegation of domestic violence against any party. Using these criteria, the final sample included 49 domestic violence (DV) and 48 non-domestic violence (non-DV) cases. In selecting the cases for the sample, researchers reviewed 130 randomly selected petitions and identified them as either DV or non-DV. Forty-three percent of the sample had DV allegations, indicating this is a fairly common allegation in Portland.

### Data Collection Procedures

Three researchers from NCJFCJ collected data on-site through extensive case file review of court documents. Case-level data were recorded on a standardized instrument. The instrument included topics such as the child's race/ethnicity; age of the parents and child; the presence of parties at each hearing; allegations and presenting problems; and services offered to the parents and child. Most importantly, the instrument included several topics prescribed by the *Reasonable Efforts Checklist* and *Accountability Checklist* as relevant to domestic violence cases:

- Whether the petition identifies the perpetrators, the victims, and if the perpetrator was removed from the home



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- Services related to domestic violence (e.g., domestic violence counseling, batterer intervention, and checking into domestic violence shelter)
- Efforts taken by the court or agency (e.g., developing a safety plan, referring the domestic violence victim to legal assistance, and referring parties to services) prior to the shelter care and permanency planning hearings to prevent removal and/or reunify families.
- Reasonable efforts findings (prevent removal, reunification, and not required) at each hearing

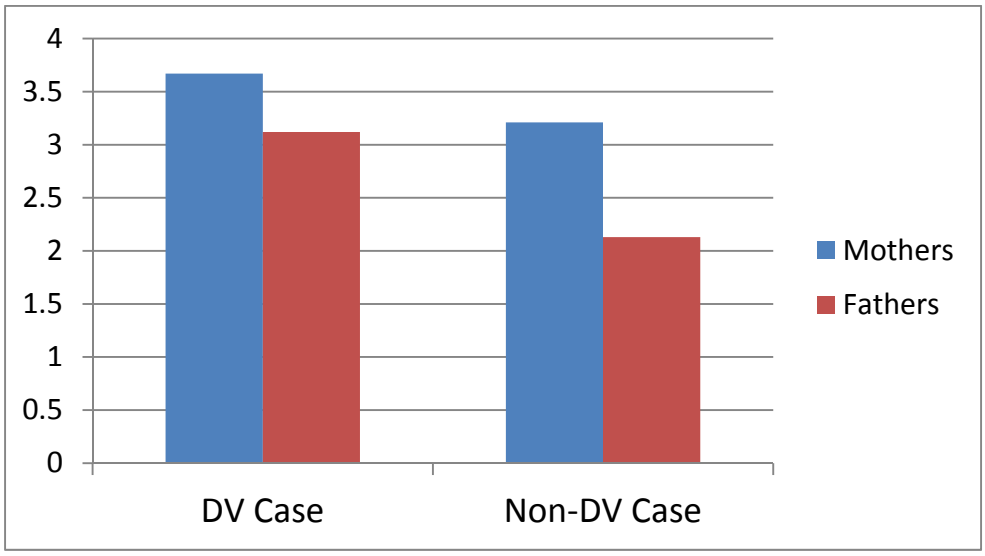
## Results

### Case Demographics

Ages of the child on the petition ranged from 1 day to 17 years, with an average age of 5.3 years. Child's ethnicity was reported as follows: White (60.8%); Black (19.9%); Hispanic (13.9%); Native American (7.2%); Asian (4.1%); Mixed (1.0%); and Undetermined (9.3%). The number of other children involved in each case ranged from 0 to 5, with an average of 1.2 across cases. In the majority (86.0%) of cases, the child on the petition was removed from the home. These basic case demographics did not differ according to case type (DV vs. non-DV).

In the overall sample, the average total number of allegations was 3.4 for mothers and 2.6 for fathers. Number of allegations against mothers did not significantly vary across DV and non-DV cases (see Figure 1). However, t-tests indicated that the mean number of total allegations against the father was significantly higher in DV cases ($M = 3.12$; $n = 49$) than in non-DV cases ($M = 2.13$, $n = 49$), $p < .01$.

**Figure 1. Mean Number of Allegations against Parents by Case Type**



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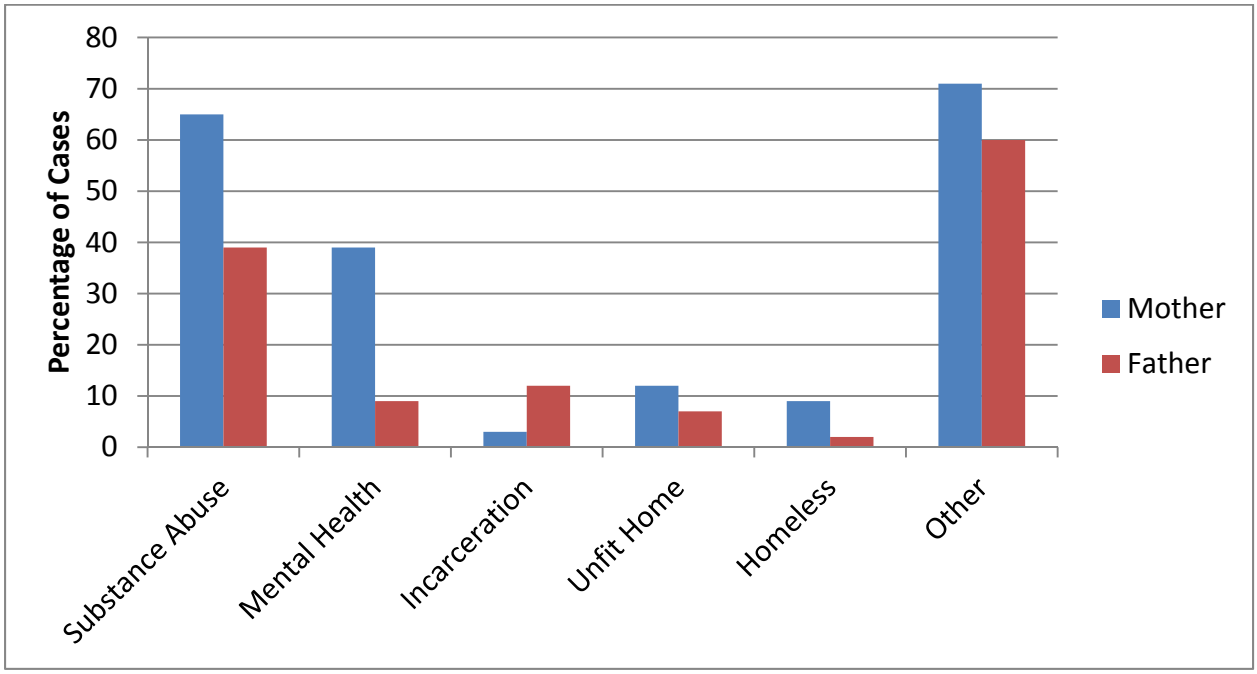
The most common specific presenting problem in the overall sample was substance abuse, noted on the petition in 64.9% of cases for mothers and in 39.2% of cases for fathers. Mental health was the second most common problem among mothers, who faced mental health issues in over one-third (39.2%) of cases. The second most common specific problem for fathers was incarceration, present in 12.4% of cases. "Other" non-specific problems were noted on the petition in the majority of cases for both mothers (71.1%) and fathers (59.8%). The frequencies of presenting problems across all cases are displayed in Figure 2.

**Figure 2. Parent Presenting Problems in Overall Sample**




Chi-square tests[6] revealed two significant differences in presenting problems between DV and non-DV cases. First, allegations of "unfit home" were less common among mothers in DV cases than among mothers in non-DV cases ($p < .05$). It should be noted that this issue was relatively infrequent in both groups, occurring for mothers in 21.0% ($n$ = 10) of non-DV cases and in less than one percent ($n$ =2) of DV cases. Second, fathers in DV cases were significantly more likely than fathers in non-DV cases to struggle with substance abuse ($p < .05$). In nearly half of all DV cases (48.9 %; $n$ =24), the petition cited substance abuse as a problem for fathers. Substance abuse among fathers was noted on the petition less than one-third of the time (29.2%; $n$ = 14) in non-DV cases.

The average total number of hearings for all cases was 6.8. A percentage score was calculated for parents in each case to represent how often they were present across hearings. On average, mothers

[6] A chi-square test indicates whether there is an association between categorical variables and the direction of this association.



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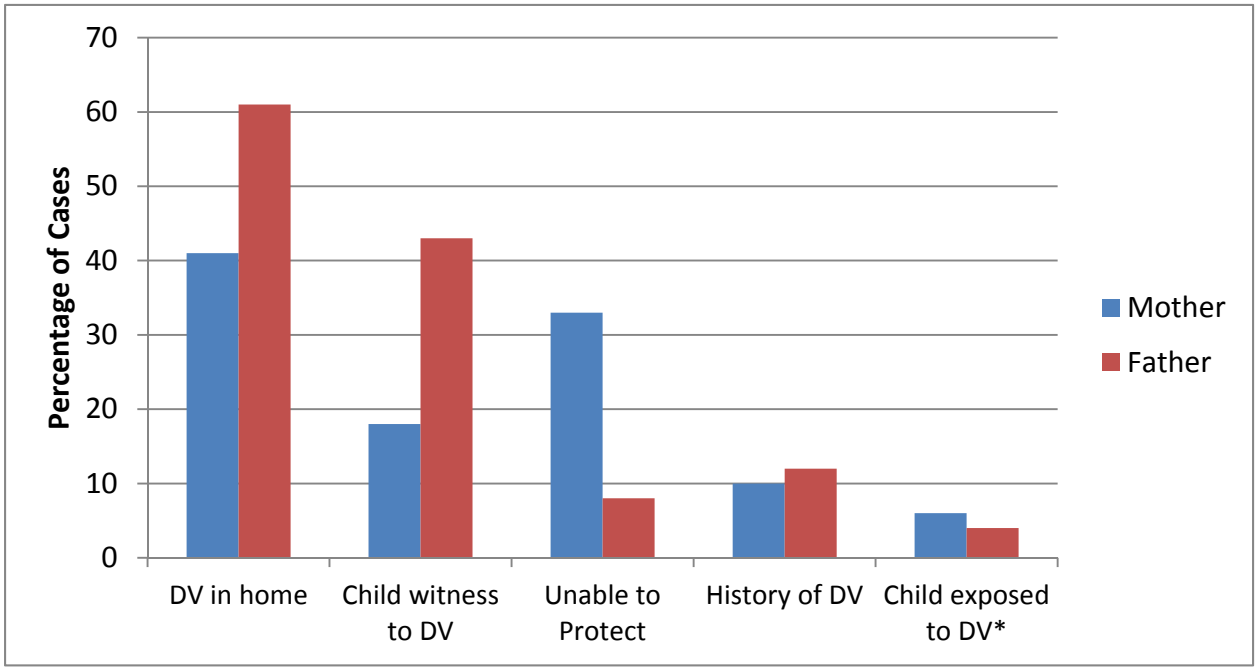
attended hearings 81.7% of the time, and fathers attended 51.7% of the time. Parent attendance at hearings did not differ between DV and non-DV cases.

## Characteristics of Cases Involving Domestic Violence

Petition language was used to identify co-occurring DV in the current sample of juvenile dependency cases. These petitions were further examined to get a better understanding of the nature and prevalence of DV-related allegations against parents. Such allegations may include children witnessing acts of domestic violence, general accusations of DV incidents in the home, or "unable or unwilling to protect" (UTP). The latter allegation is often made against mothers who are also victims of DV, even if they themselves are non-violent.

Figure 3 displays the frequencies of parent allegations specific to the DV cases. Occurrence of domestic violence in the home was the most common against both mothers (40.8% of cases; *n* = 20) and fathers (61.2%; *n* = 30). Allegations that the child witnessed domestic violence were more common against fathers (42.9%; *n* = 21) than mothers (18.4%; *n* = 9). As expected, UTP allegations were predominantly against mothers (32.6%, *n* = 16) and were noted for fathers in only 4 (8.2%) cases.

**Figure 3. Allegations Specific to Domestic Violence Cases**




**Note:* "Child exposed to DV" refers to situations in which a child did not directly witness acts of domestic violence but were exposed to the violence in other ways (e.g., hearing an altercation, seeing their parents' injuries, etc.). Petitions must specifically use the term "exposed" for this to be recorded as an allegation.

The petition identified the perpetrator in approximately three-quarters (75.5%; *n* = 37) of DV cases. Within these 37 cases, the father was identified as a perpetrator most of the time (78.4%; *n* = 29). "Other" (e.g., stepfather, boyfriend) was identified as a perpetrator in 10 (20.4%) cases, and the mother



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was a perpetrator in 4 (8.2%) cases. The victim was identified in 77.6% (*n* = 39) of cases and was always the mother. In most cases, there was not enough information in the file for the researchers to determine whether the perpetrator had been removed from the home.

There were no indications that a domestic violence advocate was present at *any* of the hearings across all 49 cases involving allegations of domestic violence. It is possible that DV Advocates were sometimes present but not properly identified in in the court record. Alternatively, DV Advocates may have been involved in some cases but not present at the hearings.

There was a co-occurring domestic relations case that included filing of a temporary protection order in 20% of the domestic violence cases (*n*=10) and in one of the non-DV cases. The temporary protection orders were filed at varying times with four filed before the dependency petition was filed (up to 1 year prior), one filed the same day as the dependency petition, and five filed in the year following the filing of the dependency petition.

## Reasonable Efforts

In the entire sample of cases, reasonable efforts findings to prevent removal were made in most Shelter Care (91.8%; *n* = 89) and Adjudication hearings (78.4%; *n* = 76). Findings of reasonable efforts to reunify were made in 21.6% (*n* = 21) of Shelter Care hearings and in 19.6% of Adjudication hearings. Over half of all Review (51.5%; *n* = 50) and Permanency hearings (63.9%; *n* = 62) included findings of reasonable efforts to reunify. Findings that reasonable efforts were not required were made in two Shelter Care hearings. Domestic violence and non-DV cases did not substantially differ with respect to reasonable efforts findings.

**Table 1. Agency Efforts to Prevent Removal and Reunify**

| Efforts | % Shelter Care (prevent removal) | % Permanency (reunify) |
|---|---|---|
| Refer to services | 52.6% | 54.6% |
| Develop safety plan | 37.1% | 33.0% |
| Secure counseling for child | 2.1% | 20.6% |
| Provide transportation services | 2.1% | 15.5% |
| Help victim find place to stay | 1.0% | 15.5% |
| Referred perp to batterer intervention* | 1.0% | 10.3% |
| Refer to DV advocate* | 3.1% | 0 |
| Enlist support of community | 2.1% | 0 |
| Help victim obtain protective order* | 0 | 1.0% |
| Help access day care services | 1.0 | 0 |
| Unable to Determine | 7.2% | 5.2% |
| Other | 63.9% | 29.9% |

*Efforts occurring primarily in DV cases



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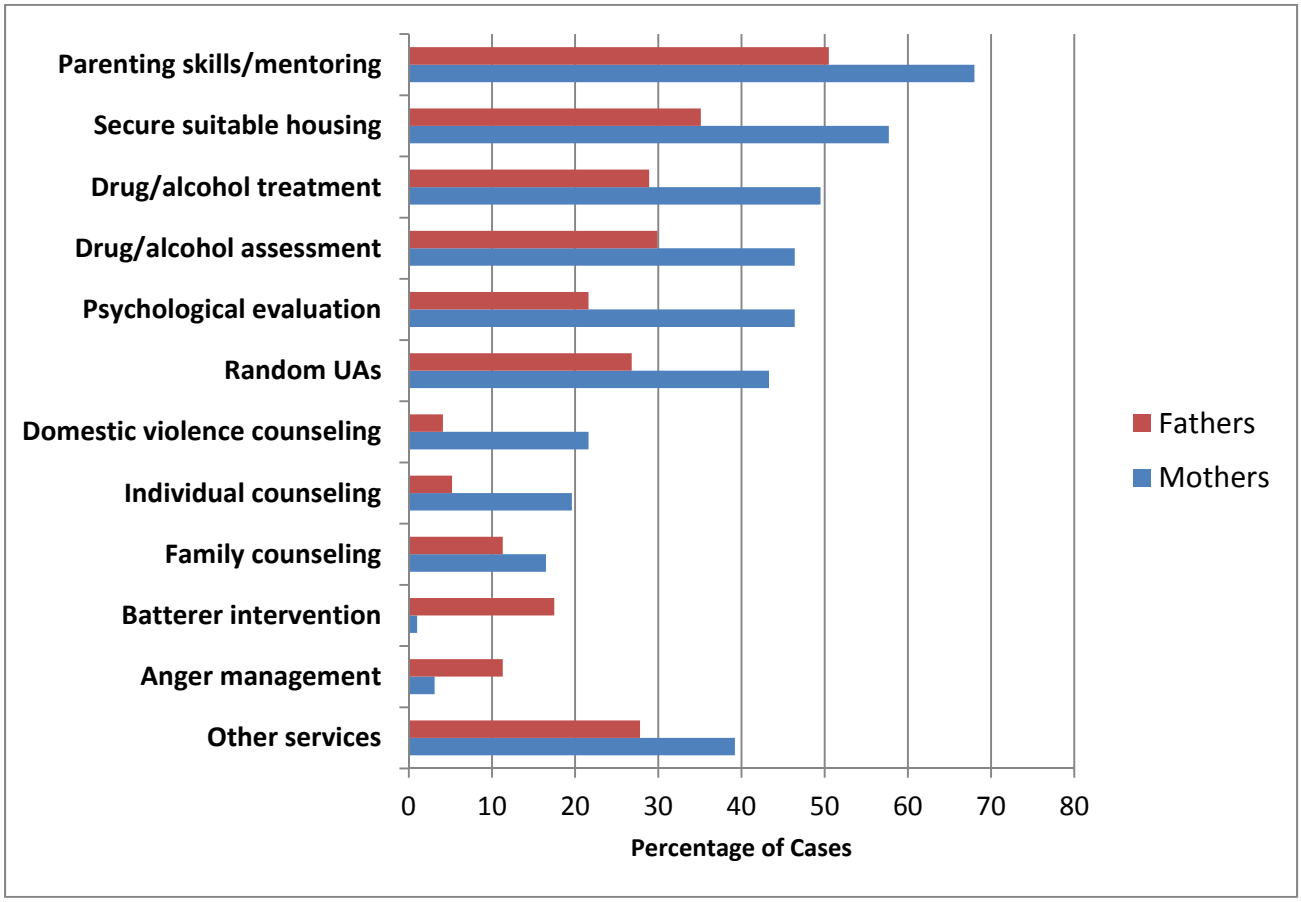
The frequencies of specific efforts agencies took to prevent removal and to reunify are displayed in Table 1. Few differences in agency efforts were noted between DV and non-DV cases. Among the 11 cases in which a perpetrator was referred to batterer intervention, 9 involved allegations of domestic violence. Two of the three referrals to a domestic violence advocate were in DV cases, and the only effort to help the victim obtain a protective order was in a case with alleged domestic violence. Though referrals specific to domestic violence issues were made in a few cases with no formal DV allegations, domestic violence may have been discovered after the petition had been filed. There was not enough information in the case files to determine if and when this occurred.

## Services

Service plans were examined both for the entire sample of cases and separately for DV and non-DV cases. Figure 4 displays the frequencies of services ordered for mothers and fathers in the total sample. In all cases, the most common specific services ordered for mothers were parenting skills/mentoring (68%; *n* = 66), secure suitable housing (57.7%; *n* = 56), and drug/alcohol treatment (49.5%; *n* = 48). Top services ordered were similar for fathers and included parenting skills/mentoring (50.5%; *n* = 49), secure suitable housing (35.1%; *n* = 34), and drug/alcohol assessment (29.9%, *n* = 29).

**Figure 4. Most Common Services Ordered for Parents**



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A series of chi-square tests were conducted to compare services ordered in DV and non-DV cases. Not surprisingly, domestic violence counseling was much more likely to be ordered for mothers in DV cases (40.8%; $n$ = 20) than in non-DV cases (.02%; $n$ = 1, $p$ <.01). There were no other significant differences in services ordered for mothers. There were several significant differences, however, in services ordered for fathers (see Table 2 for frequencies). Specifically, fathers in DV cases were significantly more likely than fathers in non-DV cases to receive orders for drug/alcohol treatment, batterer intervention, and anger management ($p$ < .05). Fathers in DV cases also were more likely than those in non-DV cases to receive orders for a drug/alcohol assessment, and this difference approached statistical significance ($p$ .054).

**Table 2. Significant Differences in Services Ordered for Fathers in DV and non-DV Cases.**

| Service Ordered for Fathers | % DV Cases ($n$ = 49) | % Non-DV Cases ($n$ = 48) |
|---|---|---|
| Anger management | 18.4% | 4.2% |
| Batterer intervention | 34.7% | 0 |
| Drug/alcohol treatment | 40.8% | 16.7% |
| Drug/alcohol assessment* | 38.8% | 20.8% |

*Marginally significant at $p$ = .054.

It is important to note that in some DV cases, there were no DV-related allegations against the father. This occurred when the perpetrator was identified as an "Other" party and in some additional cases for unknown reasons.[7] Among the 49 cases in which DV was identified, 37 included DV-related allegations against the father that were noted on the petition. The frequencies of services ordered within this sample were calculated to better describe responses when there is definite knowledge of the father's involvement in domestic violence (see Table 3). Orders for substance-abuse services were especially common among fathers with DV-related allegations against them. Over half (54.1%; $n$ = 20) were ordered to complete drug/alcohol treatment and 48.6% ($n$ = 18) received orders for drug/alcohol assessments and random UAs. Less than half of fathers with DV-related allegations noted in the petition were ordered to complete a batterer intervention program.

Service orders for children were rare. The most common orders were for individual counseling, occurring in 16 (16.5%) of all cases, followed by family counseling, occurring in 11 (11.3%) of cases. Service orders for children in DV cases did not differ from those in non-DV cases.

[7] For instance, the petition may have noted DV-related allegations against the mother (such as domestic violence in the home) but not against the perpetrator.



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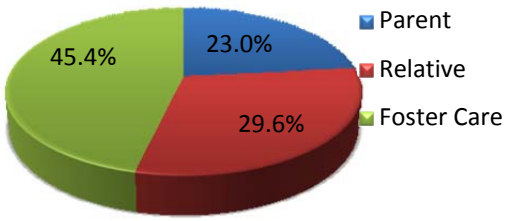
**Table 3. Services Ordered for Fathers with DV Allegations.**

| Service | Percentage of Fathers Ordered ($n$ = 37) |
|---|---|
| Parenting skills/mentoring | 62.2% |
| Drug/alcohol treatment | 54.1% |
| Drug/alcohol assessment | 48.6% |
| Random UAs | 48.6% |
| Batterer intervention | 45.9% |
| Secure suitable housing | 35.1% |
| Psychological evaluation | 29.7% |
| Anger management | 24.3% |
| Domestic violence counseling | 10.8% |
| Individual counseling | 8.1% |
| Family counseling | 5.4% |

## Case Timeliness, Placement, and Outcomes

Among all 97 cases examined, 48.5% ($n$ = 47) had closed. Reunification was the most common outcome, occurring in 66% ($n$ = 31) of the cases that had closed. Petitions were dismissed in 25.5% ($n$ =12) of closed cases. Less common case outcomes included Guardianship (2.1%; $n$ =1), TPR/Adoption (2.1%; $n$ = 1) Aging Out (2.1%; $n$ = 1) and Other (2.1%; $n$ = 1). The average time from petition date to case closure date was 330.1 days. There were no differences in case outcomes and timeliness between DV and non-DV cases.

**Figure 5. Average Percentage of Placement Settings Across All Hearings**




The average total number of child placements for all cases was 1.6. Figure 5 displays the average percentages of case placement settings, which were calculated across all hearings (see Figure 5). Children were most frequently placed in stranger or non-relative foster care (45.5%), followed by with a relative (29.8%) and with one or both parents (23.0%). As with case outcomes, there were no differences in either number or type of placements between DV and non-DV cases. Most notably, children in DV cases were not returned to non-offending parents any earlier than children in non-DV cases.



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## Discussion

Child abuse and neglect and domestic violence in the home frequently co-occur. Based on prior research, it is likely that at least 25% of families in juvenile dependency court have been affected by DV, and this figure may be closer to 50%. In Portland, 43% of dependency petitions from the sample selected had an allegation of DV. Thus, it is important that courts and agencies work to target the unique issues and needs of children and families in such cases. This study explored court responses to dependency cases with co-occurring DV, comparing them to cases with no indications of DV.

Current findings indicate that in this jurisdiction, DV-related issues are often recognized in dependency cases and that efforts are being made to address these issues. Mothers in DV cases were frequently ordered to attend domestic violence counseling.

Nearly half of all fathers identified as perpetrators were ordered to complete batterer intervention programs The remaining fathers were ordered to anger management, substance abuse treatment or some other option. **The *Reasonable Efforts Checklist* and the *Accountability Checklist* recommend perpetrators' service plans include batterer intervention programs that focus on promoting accountability and behavioral change.** Having a better understanding of the nature and context of DV in each of the cases might lead to changes in services ordered for perpetrators.

The *Reasonable Efforts Checklist* also urges courts to identify and address any substance abuse concerns in dependency cases involving DV. Substance abuse is a key predictor of DV, though it should never be considered as an excuse or justification. Approximately 50% of men in substance abuse treatment are perpetrators of DV, and approximately 50% of men in batterer intervention programs have substance abuse issues.[8] Consistent with these statistics, substance abuse was significantly more likely to be a presenting problem for fathers in DV cases than for fathers in non-DV cases. Service plans appeared to target substance abuse issues among fathers in DV cases, as they were significantly more likely to receive orders for substance abuse assessment and treatment than fathers in non-DV cases. It also should be noted that women with substance abuse issues have a much higher risk of experiencing DV compared to women who do not face these issues.[9] In the current study, however, there were no differences between mothers in DV and non-DV cases regarding substance abuse as a presenting problem or related services ordered.

Reasonable efforts findings did not differ across DV and non-DV cases. In addition, few differences were noted in agency efforts to prevent removal (made prior to the Shelter Care hearing) and to reunify (made prior to the Permanency hearing). ***Other than occasionally referring perpetrators to batterer***

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[8] Thomas, M. D., & Bennett, L. (2008). The co-occurrence of substance abuse and domestic violence: A comparison of dual-problem men in substance abuse treatment and in a court-ordered batterer program. *Journal of Social Work Practice in the Addictions, 9*, 299-317.

[9] Cunradi, C. B., Caetano, R., & Schafer, J. (2002). Alcohol-related problems, drug use, and male intimate partner violence severity among US couples. *Alcoholism: Clinical and Experimental Research, 26*, 493-500.



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***intervention, there was little documentation of agency efforts that are often recommended in DV cases (e.g., referring victims to legal assistance and DV advocates, enlisting community support). There also was no indication that a domestic violence advocate was present at any of the hearings.*** This may be attributable to lack of staff and other resources. Again, it is also possible that more efforts were made than were officially documented and included in the case files.

Shortly after this study was conducted, the Portland Model Court developed action plans aimed at improving responses to juvenile dependency cases with co-occurring DV as part of the NCJFCJ *Reasonable Efforts in Dependency Cases Involving Domestic Violence* Mini Conference. Specifically, the Portland site proposed establishing reporting guidelines and training for DV advocates to provide courts and agencies with more detailed information about the nature and context of the domestic violence. The court also plans to provide domestic violence training for juvenile defense attorneys and to explore and perhaps implement assessment procedures to identify appropriate interventions for perpetrators. These efforts will inform court and agency decision-making to help ensure that children and victims are supported and protected, perpetrators are held accountable, and families receive the services they need.

There are several limitations to this exploratory study. There were plans to explore other topics highlighted in the *Reasonable Efforts Checklist*, such as whether the perpetrator was held accountable, if there was a separate case plan for each parent, and if there was a focus on keeping the victim and child safe and together. In most cases, there was not enough information to answer these questions. Further, current findings are based on a limited sample of cases. Future research could expand on these initial findings to provide a more comprehensive understanding of court responses to juvenile dependency cases with co-occurring domestic violence.

## Conclusion

As child abuse and neglect and domestic violence in the home often co-occur, it is critical that courts recognize and respond to domestic violence in juvenile dependency cases appropriately. This research found that court responses to juvenile dependency cases with and without DV differed in terms of services ordered, suggesting that judges are indeed trying to address specific issues in families affected by domestic violence. In many other respects, however, cases involving DV and those not involving DV were treated similarly. For instance, there were no differences in reasonable efforts findings, agency efforts to prevent removal and reunify, child placements, or case outcomes between DV and non-DV cases. The Portland Model Court is currently implementing action plans to further improve responses to juvenile dependency cases with co-occurring DV, which should also result in increased involvement of DV advocates and more tailored referrals and service plans. Because this study was exploratory, much more research is needed to determine the extent to which court responses in dependency cases with co-occurring DV promote family safety and well-being. *This report can be used to identify current practices within the court, encourage discussion with stakeholders of any recommended changes, and to as a baseline measure if changes are made to compare pre and post those changes.*



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