

Justice Reinvestment Initiative: Reducing Violent Crime by Improving Justice System Performance in Vermont

Intercept 2: Initial Detention and Court Hearings

Fourth Presentation to the Domestic Violence Response
Justice Reinvestment Working Group

June 16, 2022

- The Council of State Governments Justice Center
- Vermont Department of Public Safety
- The Vermont Network Against Domestic and Sexual Violence



Justice Center
THE COUNCIL OF STATE GOVERNMENTS



**Justice
Reinvestment
Initiative**
Vermont

Project partners include staff from The Council of State Governments (CSG) Justice Center, Vermont Department of Public Safety, and The Vermont Network Against Domestic and Sexual Violence (Vermont Network).



Sara Bastomski, Research Manager

David A. D'Amora, Senior Policy Advisor

Carly Mychl Murray, Senior Policy Analyst

Brant Wadsworth, Project Manager



Lance Burnham, Captain at Vermont State Police and Emergency Communications Commander



Sarah Robinson, Deputy Director

Lisa Ryan, Director of Domestic Violence Response Systems (no longer with the Vermont Network as of June 3, 2022)

Karen Tronsgard-Scott, Executive Director

As members of the Executive Working Group, your role is essential.

During presentations, we ask that you



1. Ask questions. What needs further clarification?



2. Offer feedback on results. What do you think of these?



3. Provide strategic direction. What is missing, or what should we examine further?



Justice Reinvestment Initiative Vermont

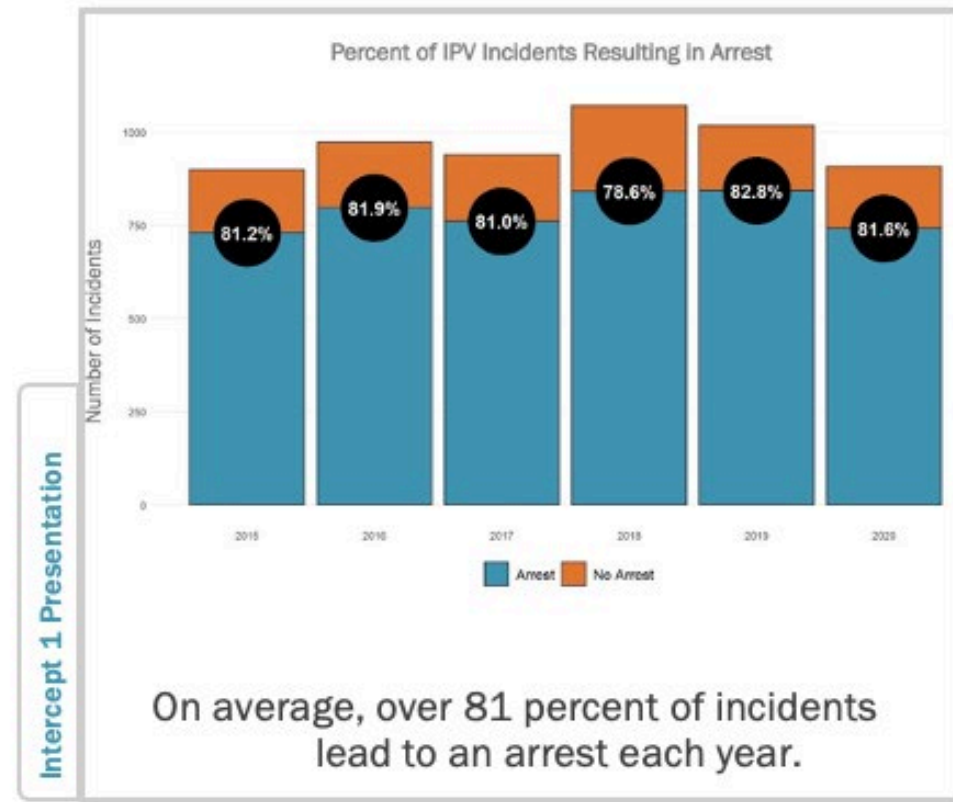
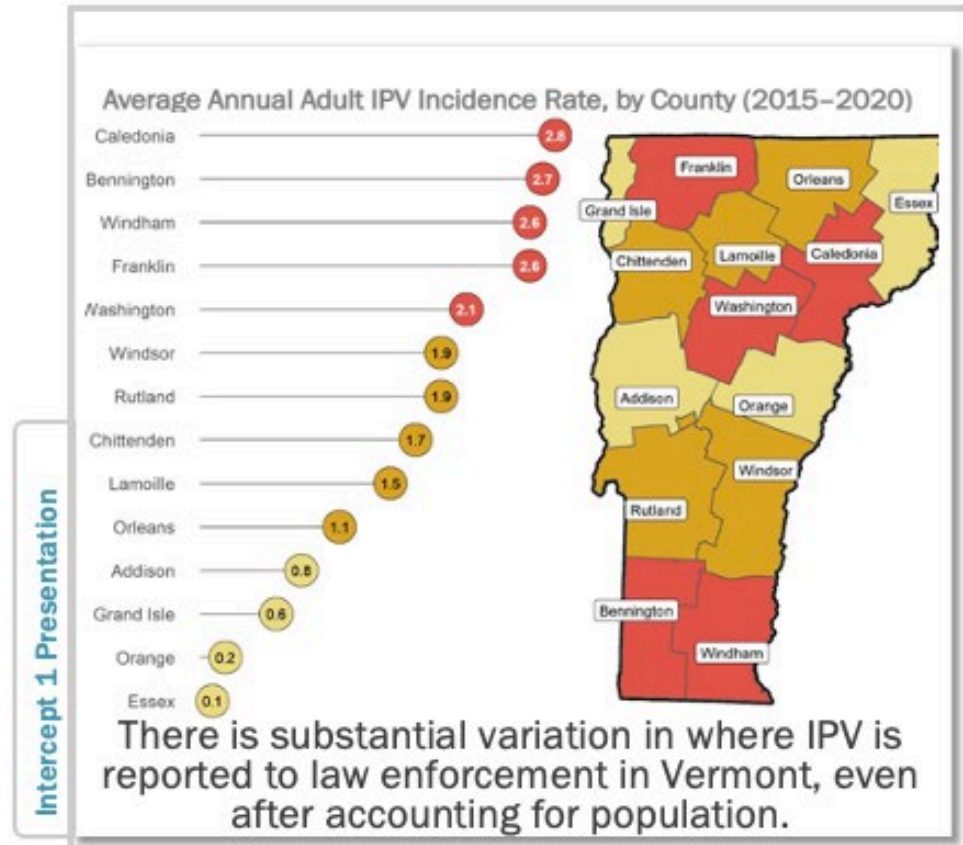
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- 3** Domestic Violence Criminal Case and Relief from Abuse Order (RFA) Trends
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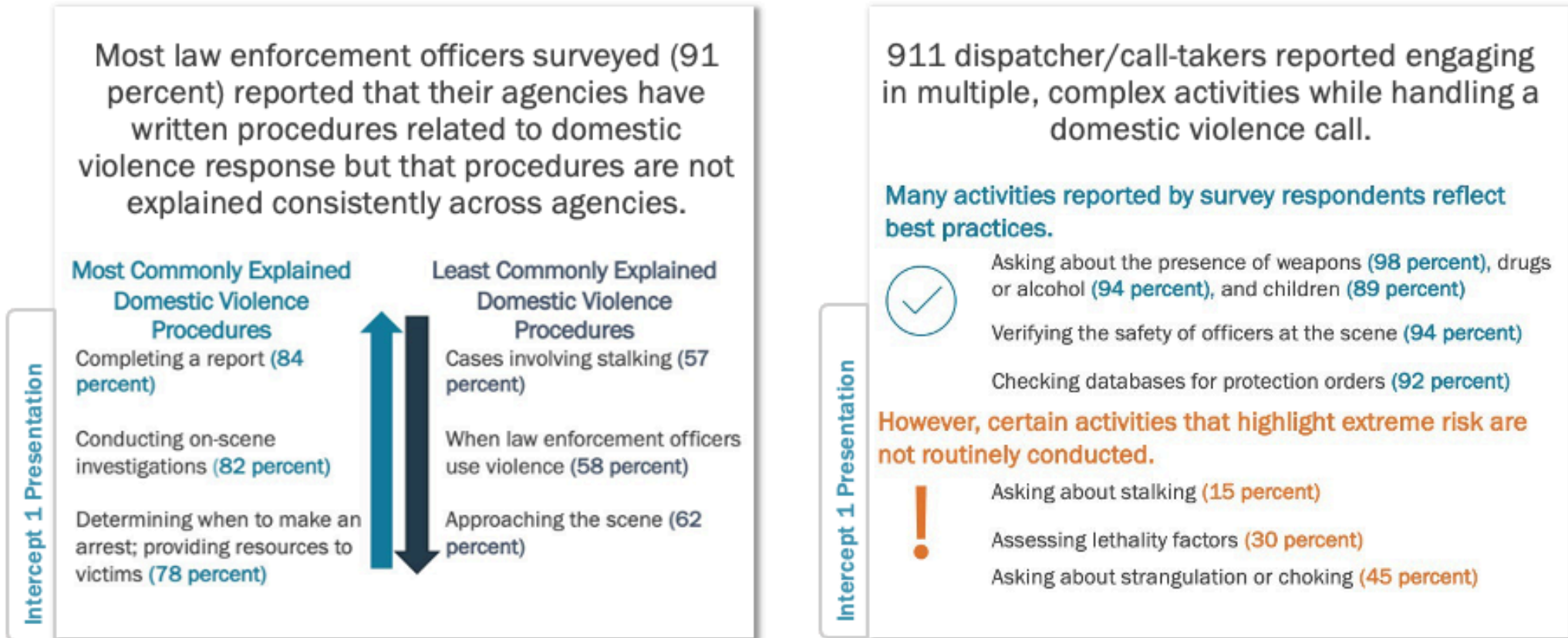
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Intercept 1 Recap: Law Enforcement and DFS

1. On average, there are 1,341 domestic violence incidents reported to police each year in Vermont, and most incidents are intimate partner violence (IPV).

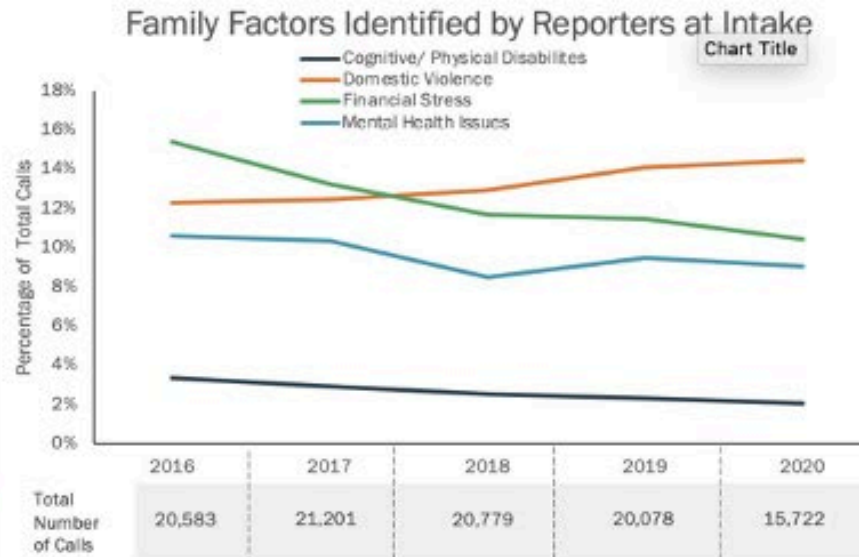


2. Inconsistent policies and practices among law enforcement officers and 911 call-takers/dispatchers contribute to varying domestic violence responses statewide.



3. DFS and the larger coordinated community response to domestic violence are challenged by differing access to resources across the state.

Domestic violence is reported as a compounding factor in thousands of reports to DCF each year.



Intercept 1 Presentation

Victims and survivors present with complex needs; meeting these needs can be challenging when resources are not available.



64 percent of law enforcement officers surveyed agreed that they have enough community resources to provide to victims and survivors.



44 percent of law enforcement and 41 percent of 911 call-takers/dispatchers agreed they have the training and resources they needed to respond to a scene where the victim does not speak English or is Deaf/Hard of Hearing.



DCF family service workers and domestic violence specialists reported varying access to partnerships and tangible resources depending on their geographic coverage area, which can impact how they are able to meet the needs of families.

Intercept 1 Presentation

The Vermont Network also presented survey results from domestic violence victims' and survivors' interactions with police in Vermont.

Survey results highlighted varied experiences among the 92 respondents.



Victims and survivors had **varied numbers of police interactions**, as well as a varied levels of safety after interacting with police and **likelihood of calling police in the future**.



70 percent of survivors **who did not call the police** reported it was because of **fear of retaliation** from their partner or partner's family.



70 percent of survivors reported they **feared calling the police** would **make things worse**, and 69 percent feared that the police would **not believe them**.



71 percent of victims and survivors **who did call the police** felt **supported by professionalism of police** and 61 percent felt **believed by police**.

Before we begin Intercept 2,

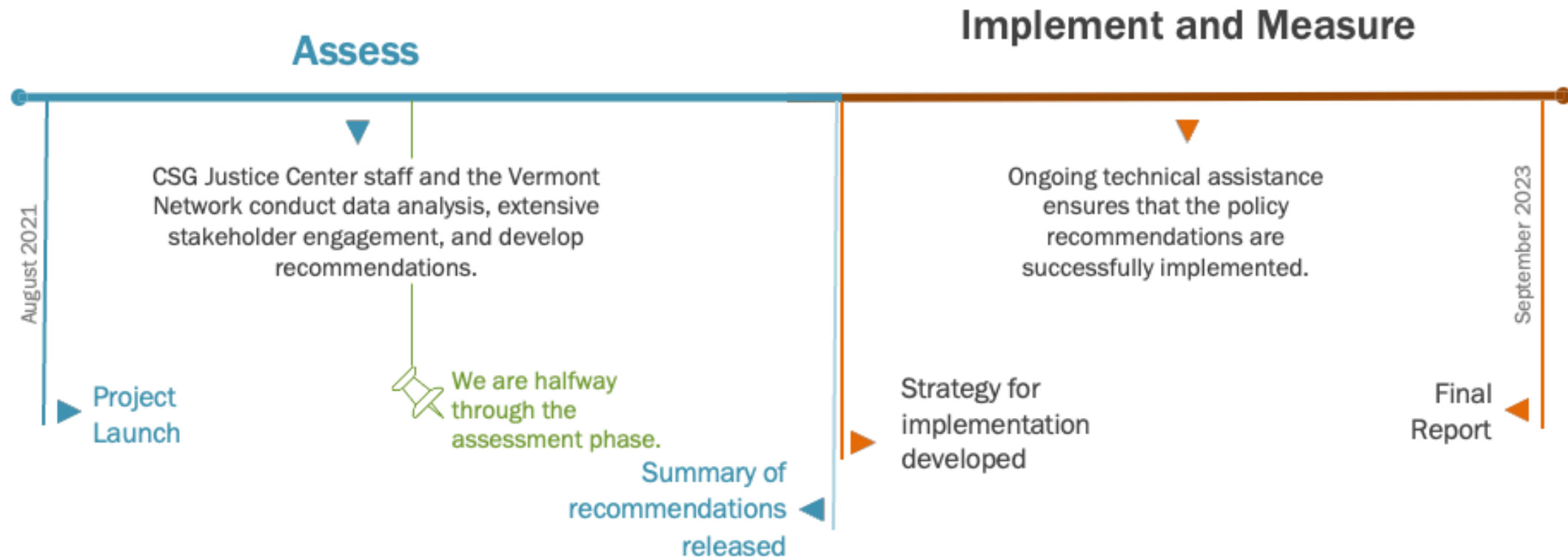


what **lingering questions or comments** do you have about our last presentation?

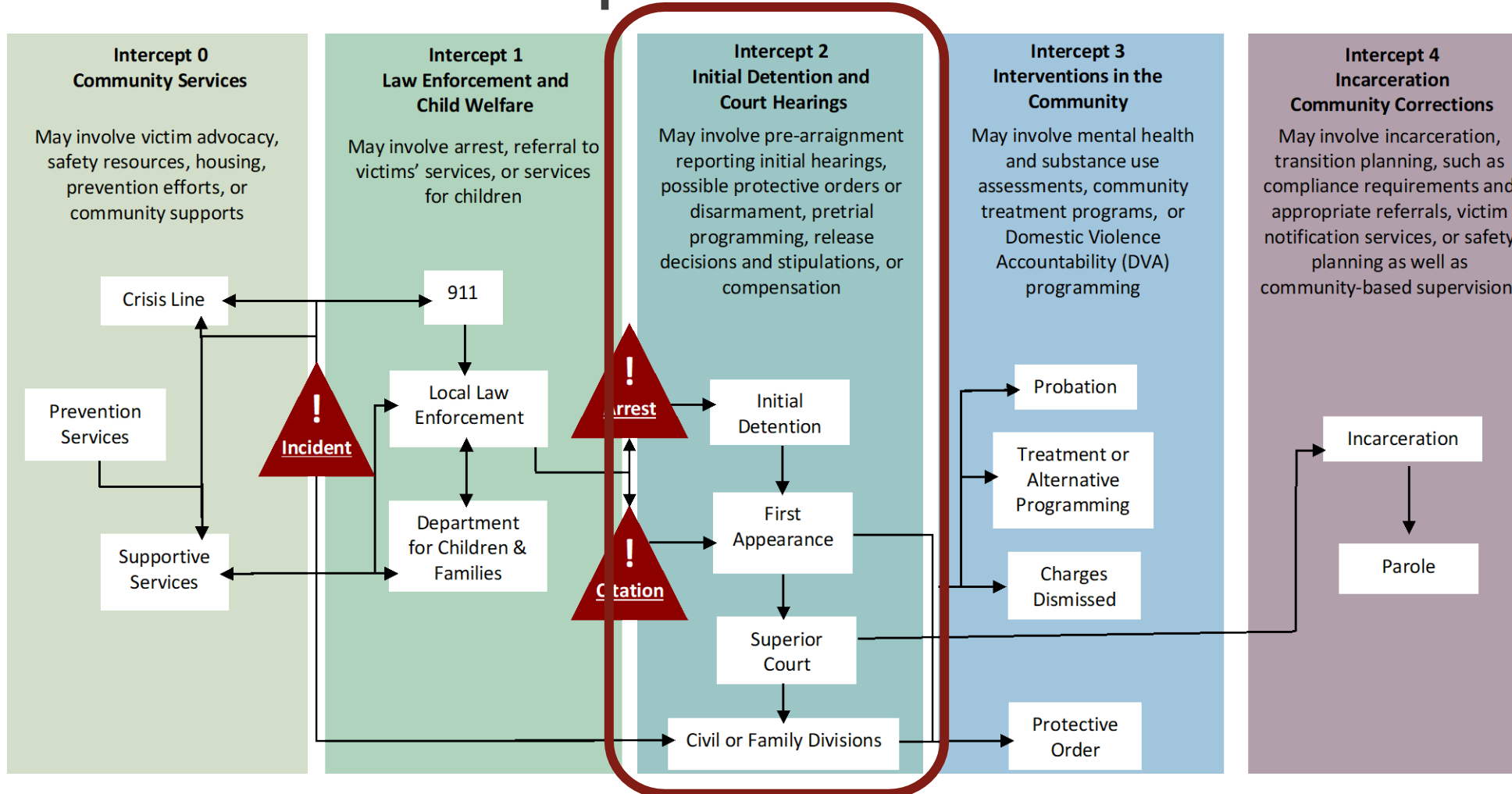
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Intercept 2: Initial Detention and Court Hearings

The Justice Reinvestment Initiative (JRI) approach entails an assessment period followed by concurrent evaluation and implementation.



A systemwide analysis using Sequential Intercept Mapping continues with Intercept 2.



SAMHSA's Gains Center, *The Sequential Intercept Model* (Rockville: Substance Abuse and Mental Health Services Administration, 2019), <https://store.samhsa.gov/sites/default/files/d7/priv/pep19-sim-brochure.pdf>. Sequential Intercept Mapping was adopted from SAMHSA's Gains Center Sequential Intercept Model.

Initial detention and court responses to domestic violence involve multiple entities within the Coordinated Community Response (CCR).



Justice for domestic violence victims and survivors **can mean many things**. Justice may be defined as **access to the criminal justice system through the courts** through orders of protection or civil or criminal cases.



When victims and survivors **seek orders of protection**, it's **often after a long history of abuse**. However, it is vital to underscore that **all domestic violence situations are unique**.

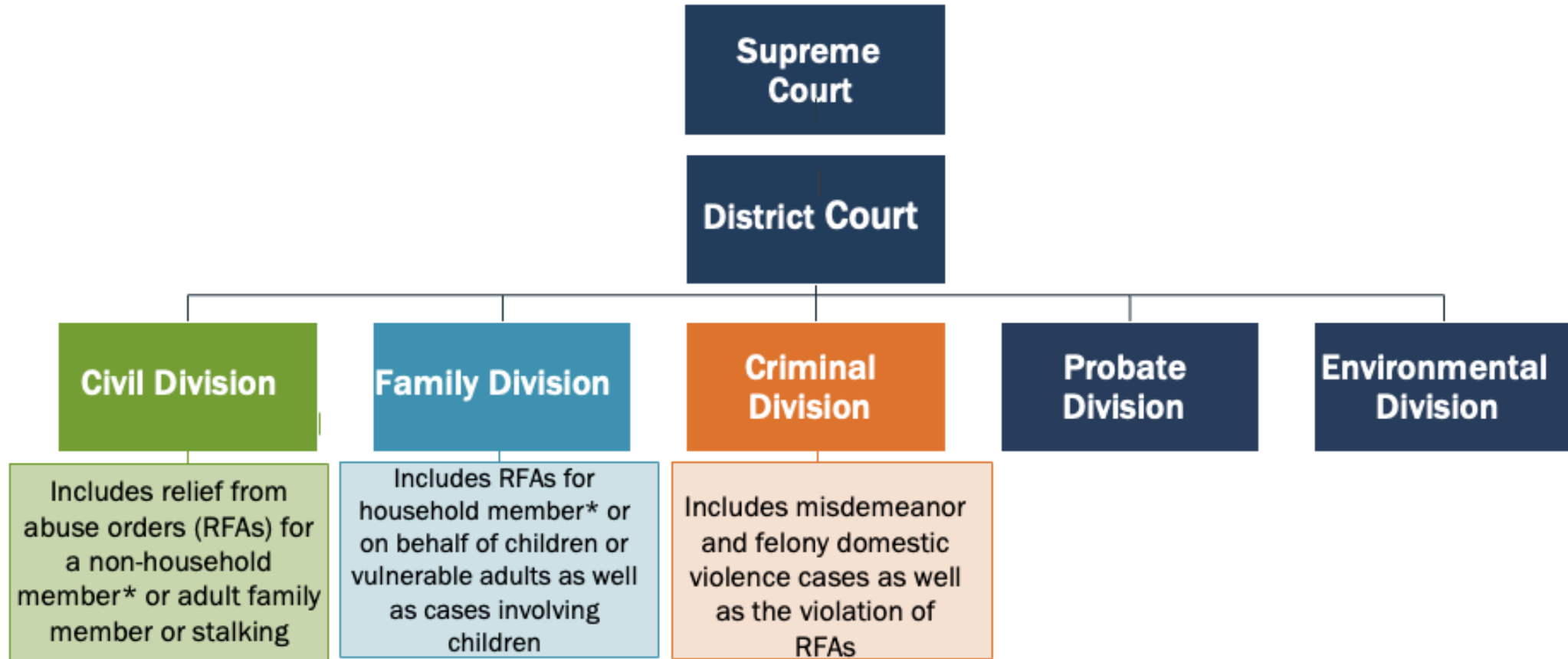


The **coordinated response** of legal advocates, prosecutors, defense attorneys, court clerks, and judges are all **integral to victim and survivor safety** and accountability for the person committing domestic violence. Best practice standards for these entities exist; however, national data show variable practices.



Some states, including Vermont, have utilized **specialized domestic violence courts** to process domestic violence cases. This model often utilizes a single judge who oversees all domestic violence cases. **Results** regarding effectiveness of these courts on domestic violence recidivism and victim and survivor satisfaction **are inconsistent**.

Vermont's unified court system provides multiple opportunities to interface with domestic violence cases.



* The Vermont statute defining household member is broad. A household member means persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or who have dated. "Dating" means a social relationship of a romantic nature.

Intercept 2 analysis is underway, with the following objectives:

- 1 Describe domestic violence cases moving through the Vermont
- 2 Assess the domestic violence **training, policies, and procedures** of attorneys, judges, and legal advocates, highlighting gaps or disparities
- 3 Capture the **experiences and perceptions** of attorneys, judges, and legal advocates related to existing domestic violence responses.
- 4 Contextualize the **relationships, coordination, and information sharing** of entities within a broader community response.
- 5 Highlight the **experiences of domestic violence victims and survivors** who have accessed the court system.

We have conducted multiple surveys, interviews, focus groups, and quantitative data analysis.

> 24,182

Domestic violence misdemeanor, felony, and protective order cases were analyzed from the Vermont Judiciary from 2016 to 2019.

≈ 120

Individuals have been interviewed or surveyed for this intercept so far.

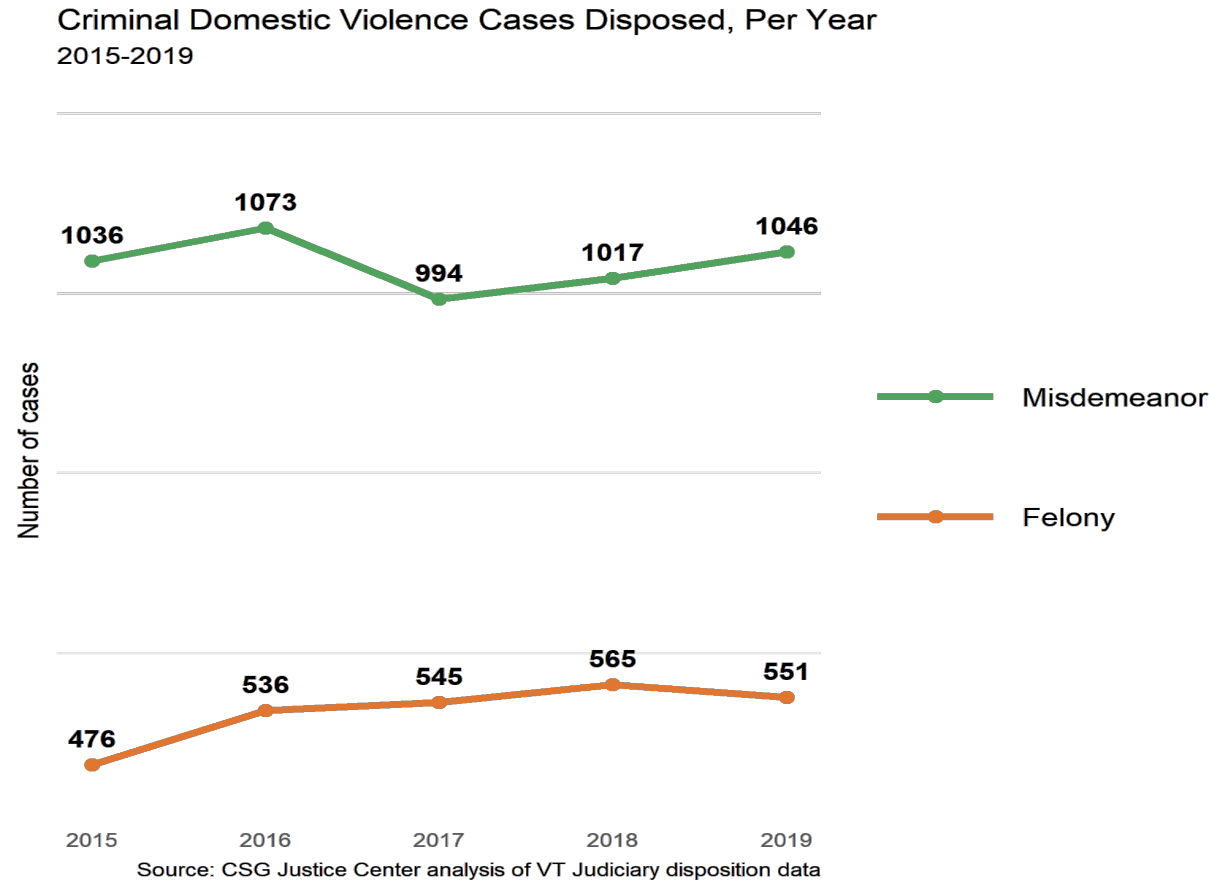
Prior to completing our analysis of Intercept 2, there are still stakeholders that we plan to engage.

We've connected with individuals across communities, organizations, and agencies.	The voices of some entities that we have reached out to are still missing.
Center for Court Innovation	Justice Will Travel
Deaf Vermonters Advocacy Services	Vermont Judiciary (Judges, Trial Operations, and Administration)
Justice for Victims Legal Clinic (Vermont Network)	
Department of State's Attorneys and Sheriffs	U.S. Attorney's Office
Domestic violence victims and survivors	
Office of the Defender General	
State's Attorneys Office	
Systems-Based and Community-Based Legal Advocates	
Vermont Attorney General's Office	

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Domestic Violence Criminal Case and RFA Trends

On average, there are 1,033 misdemeanor and 535 felony domestic violence cases each year in Vermont.

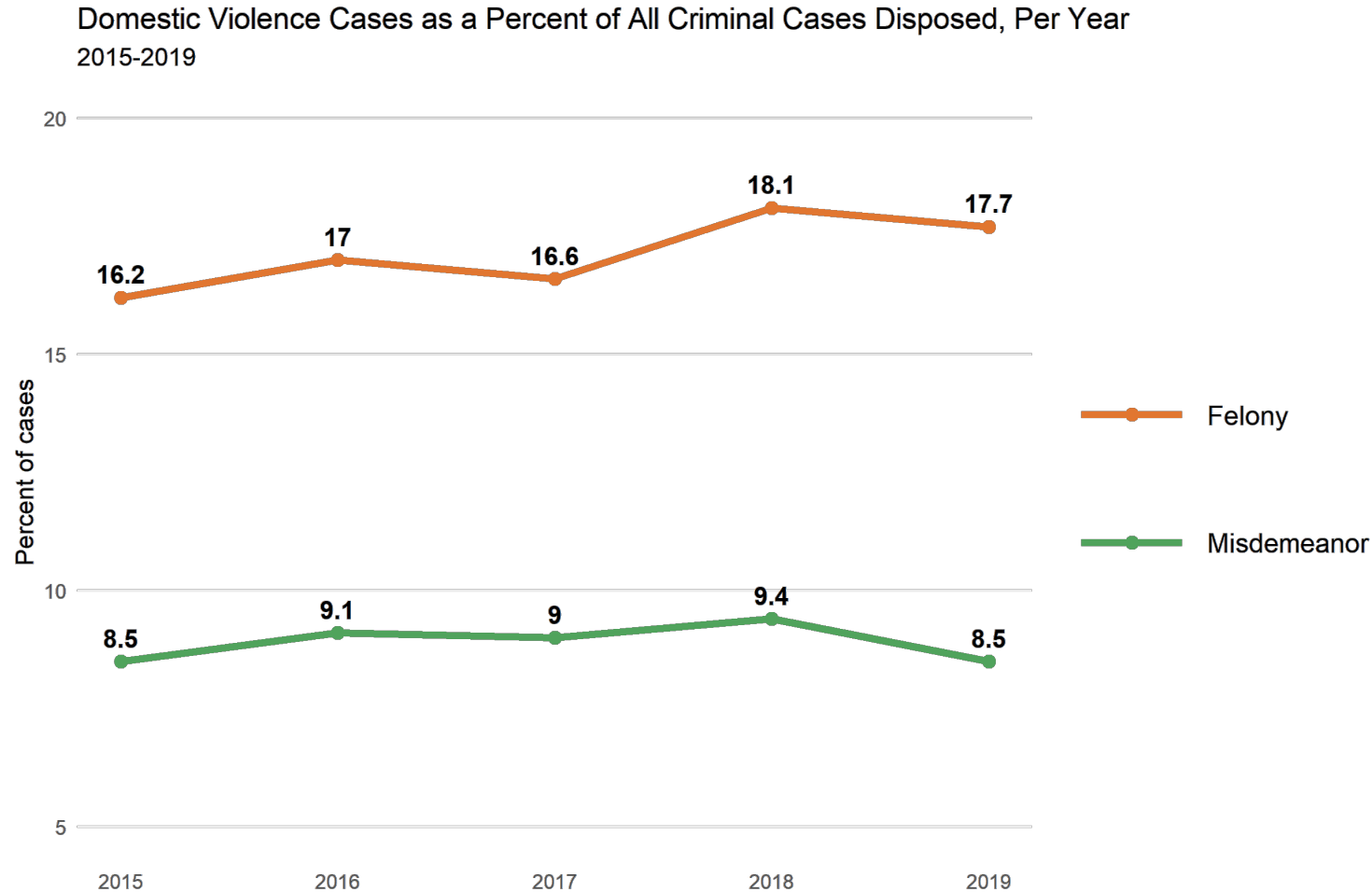


A domestic violence (DV) case is defined as any case that includes any domestic violence assault or violation of an abuse protection order (VAPO) charge filed.

There is no indicator for other DV offenses (e.g., DV stalking), so these counts are likely to underestimate the true extent of DV criminal cases in Vermont.

Vermont statute defines DV relationships broadly as household members, so the percent of intimate partner violence (IPV) cases is not measurable. However, previous CSG Justice Center analysis using arrest data indicated that over 70 percent of DV incidents in Vermont are IPV.

The percentage of all felony cases that include a DV felony charge has gradually increased in recent years.



What are the sentencing implications of these charges? Are they consistent or effective?

On average, approximately 17 percent of felony cases each year include a felony DV charge, whereas 9 percent of misdemeanor cases include a misdemeanor DV charge.

During this period, DV felony cases accounted for a growing share of all felony cases in the state.

On average, defendants in DV cases differed from defendants in all other cases on demographic and case characteristics.

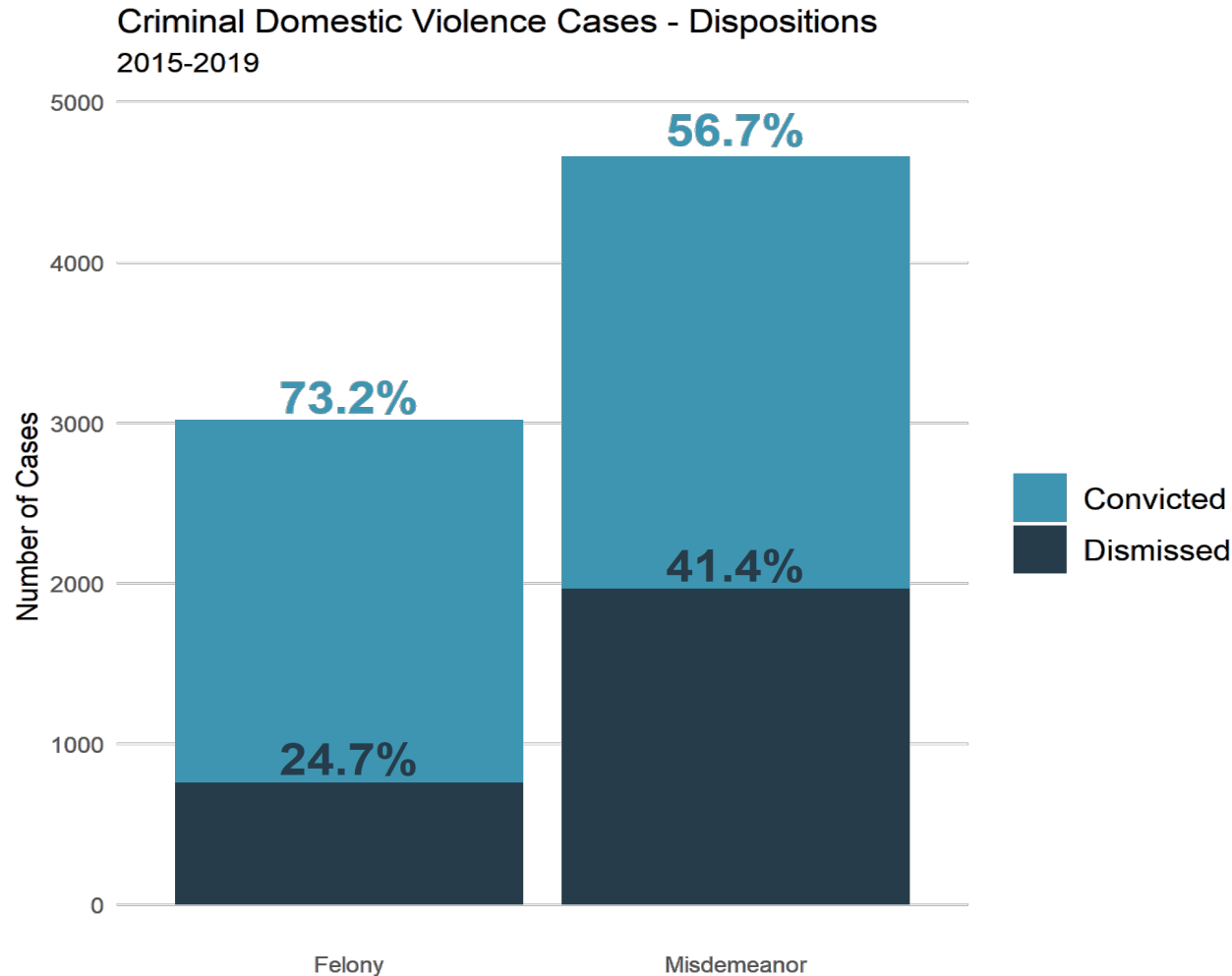
	Defendants in DV Cases (N=6,211)	Defendants in Other Cases (N=38,932)
Median Age at Case Filing (Years)	34 years	32 years
Identified as Male	77.8%	68.7%

The vast majority of DV cases involve male defendants.

This finding aligns with national literature on IPV, which indicates that men are more often responsible for severe forms of IPV (i.e., the kinds that we expect to more often result in criminal charges).

Michael Johnson, *A Typology of Domestic Violence: Intimate terrorism, violent resistance, and situational couple violence* (Lebanon, NH: Northeastern University Press, 2008).

Nearly 74 percent of felony DV cases and 57 percent of misdemeanor DV cases result in a conviction.



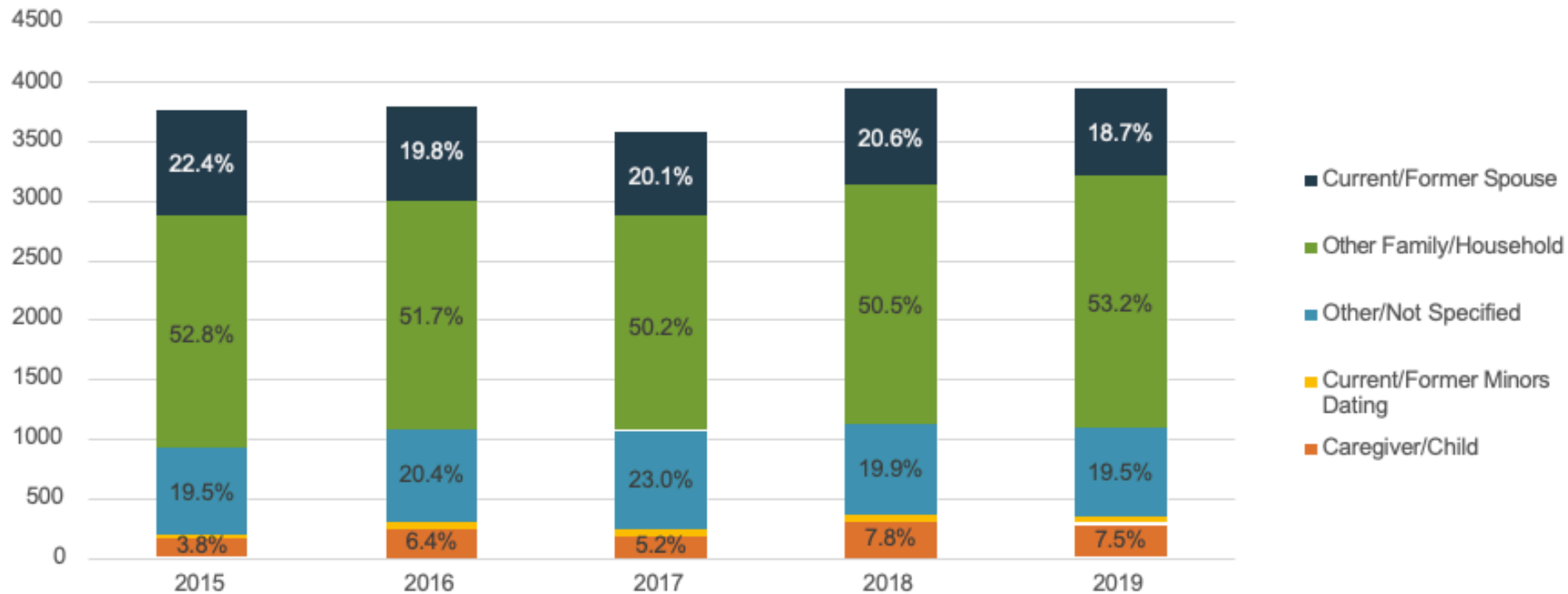
Percentages add up to less than 100 because case transfers and acquittals, which account for about 2 percent of all cases, are not shown in this graphic.

Over 99 percent of DV cases that lead to a conviction (meaning that the defendant is convicted of at least one charge in the case) are the result of a plea agreement.

How effective are the plea agreements in changing behavior and providing safety?

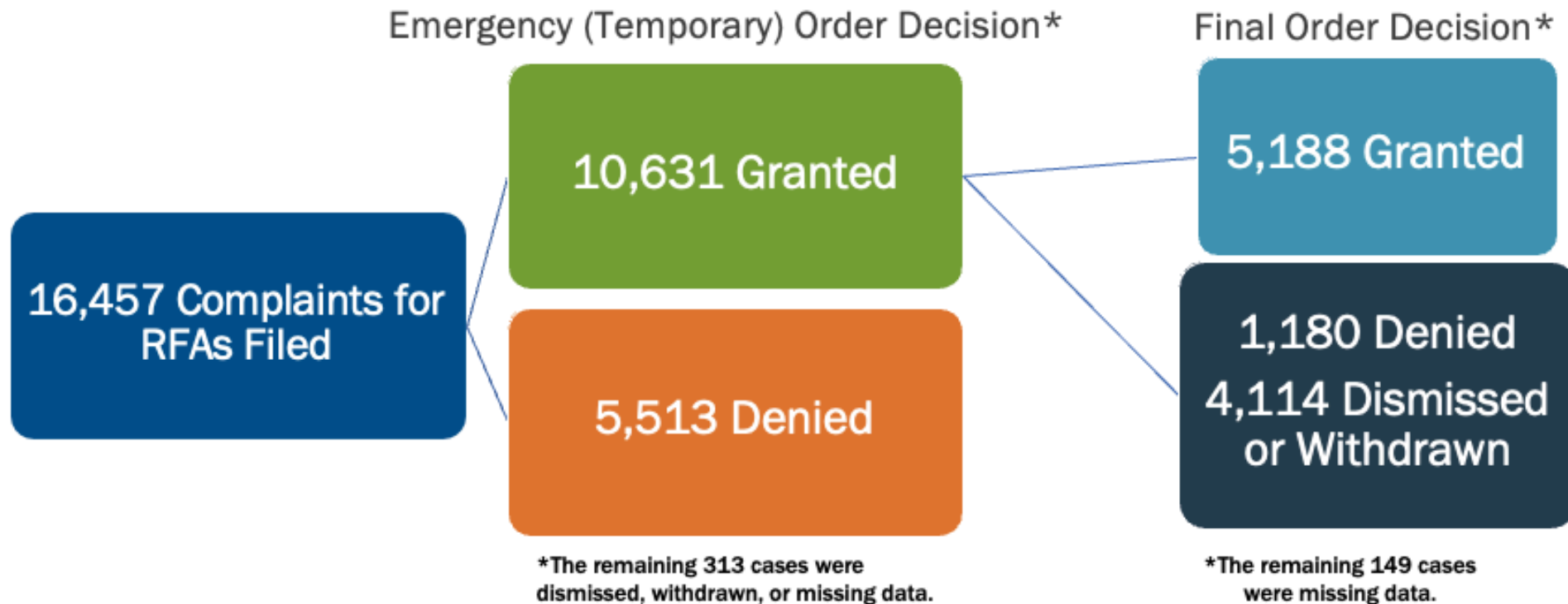
On average, there are 3,790 plaintiffs named in an RFA complaint each year in Vermont, and about 1 in 5 plaintiffs are a current or former spouse of the defendant. IPV rates remain unclear.

Plaintiffs in RFA Complaints, By Plaintiff/Defendant Relationship
2015–2019



The majority of complaints for RFAs filed result in a temporary order being granted, and nearly half of temporary orders lead to a final order.

RFA Complaints Filed 2015–2019



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Preliminary Themes

Four preliminary themes have been identified through initial stakeholder outreach.



Theme 1: There is a need for established standards of practice for attorneys, judges, and advocates in the legal system to create more consistent responses for victims and survivors.

- The use of evidence-informed practices in legal responses to Vermont's domestic violence cases is unclear and inconsistent.
- Community agencies and state systems responding to domestic violence cases in the court system reported varied training.
- Opportunities for domestic violence education beyond initial training vary and are not typically funded.

The use of evidence-informed practices in legal responses to Vermont's domestic violence cases is unclear and inconsistent.



The **lack of cohesive training standards** makes it **difficult to determine Vermont's adherence to evidence-informed practices**. Stakeholders reported that national trainings were often not applicable to Vermont laws, suggesting a **conflation of statutes and evidence-informed practices**. One does not contraindicate the other.



Stakeholders reported a **lack of opportunity to apply training and/or follow-up** to ask training application questions.



Among legal advocates surveyed, **88 percent disagreed that court responses to domestic violence across the state are consistent**. Discrepancies included domestic violence responses of judges, attorneys, and other court processes among counties.

Community agencies and state systems responding to domestic violence cases in the court system reported varied training.



Stakeholders reported that **domestic violence education or training is not required** for attorneys, clerks, or judges. Issues specific to domestic violence **may** be offered at **annual trainings** for prosecutors, but this is **not common**, and these trainings most often focus on **DUIs or drug offenses**.



The amount of **education or training** legal **advocates received upon entering their current role varied**, with most legal advocates from the State's Attorney Offices (63 percent) reporting 0–5 hours of training and most legal advocates from Vermont Network member organizations (82 percent) reporting more than 15 hours of training.



Specifics regarding domestic violence **training for the judiciary remain unclear**, as we have not yet been able to solicit feedback. With the help of Chief Superior Judge Zonay, we plan to explore several key issues prior to our next presentation.

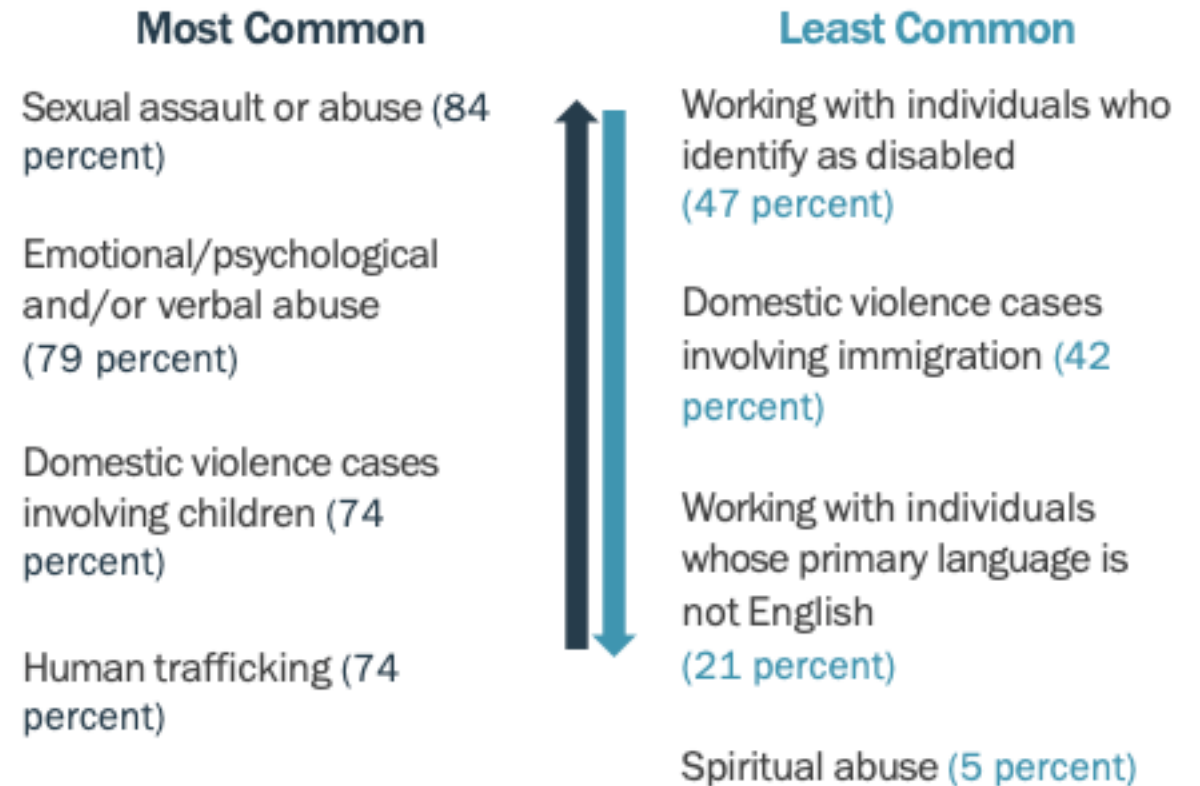
Opportunities for domestic violence education beyond initial training vary and are not typically funded.

Supplemental trainings are vital for **optimal and consistent responsiveness** to victims and survivors.

Of the legal advocates who responded to the survey, approximately **half** reported receiving **over 15 hours of additional training**, while the **other half** of respondents reported receiving **less than 10 hours**.

Trainings or continuing education specific to domestic violence issues are **sparse for attorneys**, and if attorneys choose to attend, they often must cover the cost of trainings.

Topics of Training Received by Advocates



Theme 2: Issues of discretion and a lack of consistent responses to domestic violence among legal advocates, law enforcement, attorneys, judges, and Department for Children and Families affect victims and survivors.

- Discretion is a powerful tool utilized in the legal system.
- Issues of discretion among entities within the legal system have tangible impacts for victims and survivors.
- Challenges in consistent court responses create barriers that ultimately impact domestic violence victims and survivors.
- Responsibility for improving effectiveness and making positive change in responding to domestic violence in Vermont includes systemwide collaboration.
- Inconsistent follow-up and tracking of domestic violence cases challenges a CCR.
- Gaps exist in collaboration among state agencies and community-based organizations.

Discretion is a powerful tool utilized in the legal system.

Discretion can positively promote equitable legal processes, allowing for implications of prior history, consideration of unique circumstances impacting a case, and how legal provisions may apply uniquely to various aspects of a case.

However, discretion also can be complicated without a clear understanding of judicial practices or mechanisms of accountability.



Sharyn Roach Anleu, Russell Brewer, and Kathy Mack, "Locating the Judge within Sentencing Reform," *International Journal for Crime, Justice and Social Democracy* 6, no. 2 (2017): 46; Shawn D. Bushway & Brian Forst, "Studying Discretion in the Processes that Generate Criminal Justice Sanctions," *Justice Quarterly* 30, no. 2 (2012): 199.

Issues of discretion within the legal system have tangible impacts for victims and survivors.

In Vermont, judges, state's attorneys, and the attorney general are **positioned uniquely** in their roles to have high levels of discretion in their decision-making power.



Stakeholders reported that issues of discretion can complicate victims' and survivors' perceptions of the legal response to domestic violence, particularly about issues of consistency or perceived fairness in response.



Research supports the importance of individuals understanding and trusting in the fairness and unbiased nature of court responses as two tenets of procedural justice. Other aspects of procedural justice include voice, respect, and helpfulness.



Procedural justice is associated with improved victim experience and long-term recovery, regardless of the outcome. Litigants are more likely to comply with court orders when they believe the court process is fair.

Challenges in consistent court responses create barriers that ultimately impact domestic violence victims and survivors.

Goals and processes for legal responses to domestic violence are not transparent.

Legal advocates, prosecutors, defense attorneys, and Department for Children and Families case workers expressed confusion about each other's policies and practices in responding to domestic violence through the court system.

Challenges in information sharing and collaboration exist among stakeholders.

In addition to a lack of transparency, stakeholders interviewed expressed that they often do not get the information they need from other agencies to make informed decisions about the legal case.

Victims are reported to experience varying domestic violence responses.

Due to unclear processes and discrepant legal responses across the state, victims may not know what resources are available to them, where to go for help, or what response to expect.

Responsibility for improving effectiveness and making positive change in responding to domestic violence in Vermont includes systemwide collaboration.



Criminal justice system stakeholders often cited limited resources and the differing approaches, policies, and practices of other agencies or systems as a primary barrier in responding to domestic violence in Vermont.



Few discussed **examining their own internal practices and approaches to collaboration**, being open to better aligning with national evidence-informed practices, and working to ensure that limited resources are being used in the most effective ways possible.



Mutual understanding and collaboration on policies, practices, and mechanisms of accountability among agencies and systems is **integral** to supporting victims and survivors and emphasizing accountability and behavior change for those who have committed domestic violence.

Inconsistent follow-up and tracking of domestic violence cases challenges a CCR.

Issues of **inconsistent court follow-up** to assess an individual's compliance with mandated court conditions were reported as threatening trust in the court system as a response to domestic violence, particularly related to relief from abuse orders.

Gaps in information sharing and understanding related to investigations, as well as prosecutorial and judicial decisions, include the contents of affidavits; past criminal history of defendants and expunged cases; a lack of clarity on how other systems or community agencies are involved with the case; and shared definitions of best practices.



Gaps exist in collaboration among state agencies and community-based organizations.



Relationships among state agencies and community-based organizations serving historically marginalized communities differ by county, inhibiting a shared understanding of these organizations' roles or opportunities for partnerships.

People from historically marginalized communities **are less likely to engage** in the criminal justice system as a response to domestic violence, which makes these **partnerships with community organizations vital to victim and survivor safety**.

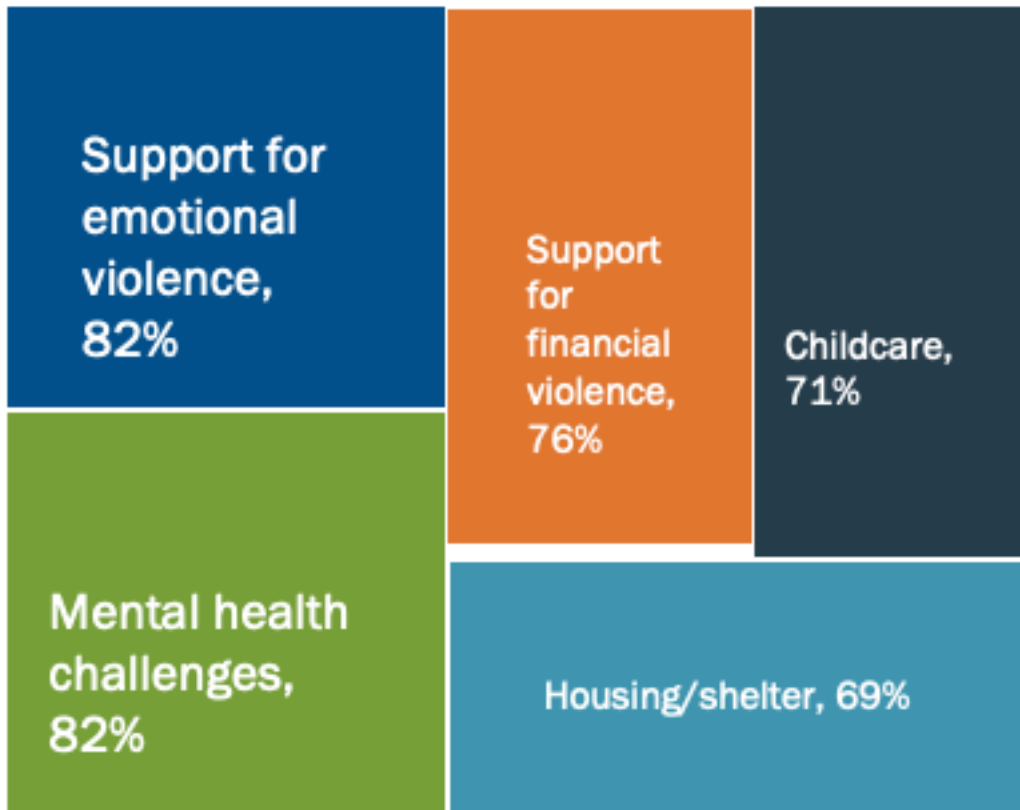
Community-based organizations can provide **tailored services** and/or education for state agencies based on culturally responsive issues such as gender or sexual identity, race or ethnicity, disability status, and/or immigration status.

Theme 3: Barriers to accessing court systems and legal representation impact victims and survivors.

- Victims and survivors enter the legal system with multiple, competing needs.
- Not all victims and survivors have equitable access to participating in the legal system as a response to domestic violence.
- Various issues are perceived to impact victims' and survivors' trust in the legal process as a response to domestic violence.

Stakeholders report that victims and survivors seek help for multiple, competing needs that are not always met.

Common Needs of Victims and Survivors Identified by Advocates



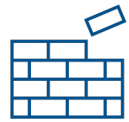
Advocates also identified mental health challenges, childcare, support for financial violence, and housing/shelter as the **most difficult needs** to meet.

Victims and survivors sometimes **contact defense attorneys** hoping to have their legal and basic needs met when they feel that the court isn't being responsive.

Stakeholders reported that not all victims and survivors have equitable access to participating in the legal system as a response to domestic violence.



Victims and survivors **who do not speak English as their first language**, or at all, face issues such as case delays due to the **lack of translators and minimal resources** in their native language.



Victims and survivors with disabilities face **additional barriers to access and services**, including perceived **believability, credibility, and disparate outcomes**. Stakeholders report that disparities are **exacerbated if an individual has a non-observable disability or mental health diagnosis**.



Rural **geography** impacts both physical access to court responses as well as barriers to **technological access**, such as lack of internet or phone service.



Victims and survivors who face risk engaging with the criminal justice system, such as those who have current or previous criminal justice involvement or a precarious legal status, may not be safe accessing legal responses to domestic violence.



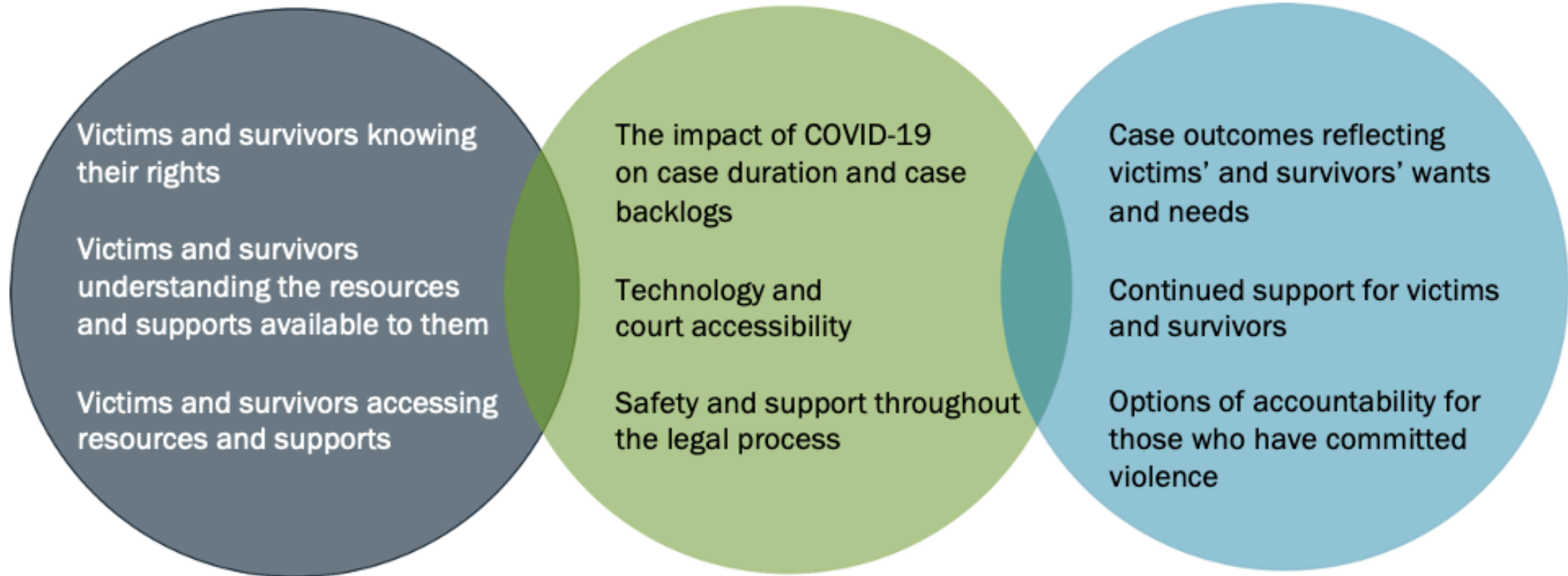
Meeting **basic needs, such as finding childcare or taking off work**, impact victim and survivor access to court responses.

Various issues are perceived to impact victims' and survivors' trust in the legal process as a response to domestic violence.

Rights and Resources

Process

Outcomes



Theme 4: Domestic violence responses within the legal system do not always reflect the needs or desires of victims and survivors.

- Stakeholders reported a desire for improved responsiveness to the needs of victims and survivors across court systems statewide, including expanded mechanisms of accountability for people convicted of domestic violence.
- Stakeholders highlighted ways in which the legal system can serve as a mechanism of control and abuse for victims and survivors.

Stakeholders reported a desire for improved responsiveness to the needs of victims and survivors across court systems statewide, including expanded mechanisms of accountability for people convicted of domestic violence.

No legal advocates surveyed agreed that court systems are responsive to the needs of most victims and survivors with whom they work.



Other stakeholders interviewed reported that more resources are needed for people who have committed domestic violence. Options are limited, and **not all victims want the person who harmed them to face incarceration.**

Varying perceptions exist about Domestic Violence Accountability Programming (DVAPs) as a resource. Stakeholders reported that **individuals may be hesitant to engage DVAP if there is a pending legal case**, as it may be considered an admission of guilt. Additionally, stakeholders highlighted the **misconception that an individual needs a domestic violence conviction to engage DVAP.**

Stakeholders highlighted ways in which the legal system can serve as a mechanism of control and abuse for victims and survivors through litigation abuse.



Litigation abuse utilizes the legal process to harass victims and survivors. Tactics may include leveraging custody of children, accumulation of legal fees, use of courtroom proximity, threatening of witnesses, and/or requesting of continuances.



Stakeholders reported that through litigation abuse, the **legal system can inadvertently facilitate continued control and abuse** of victims and survivors.



This finding is **not unique to Vermont**. National literature supports the pervasiveness of this issue, underscoring the need for members of the court system, such as prosecutors and judges, to be trained on recognizing and responding to this form of abuse.

Mary Przekop, "One More Battleground: Domestic Violence, Child Custody, and the Batterers' Relentless Pursuit of their Victims Through the Courts," *Seattle Journal of Social Justice* 9, no 2 (2011): 14; Washington State Supreme Court Gender & Justice Commission, *Domestic Violence Bench Guide for Judicial Officers*, (Olympia: Administrative Office of the Courts, 2016); Illinois Family Violence Coordinating Council, *Protocol for Law Enforcement & Prosecutors: Responding to Victims of Domestic Violence*, (Chicago: Criminal Justice Information Authority, 2019).

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Further Examination and Next Steps

Domestic violence education and practices

1. How can Vermont develop training focusing on distinct issues and needs of each agency or system responding to domestic violence cases involved in the court system?
2. How can Vermont develop training focusing on successful methods of collaboration among agencies and systems to successfully respond to domestic violence cases in the court system?



Collaboration and information sharing

1. How can **practices and procedures for consistent information** sharing be established among agencies and systems responding to domestic violence cases in the court system?
2. How can agencies and systems best **utilize their resources and partnerships to increase the effectiveness** of their domestic violence response, regardless of funding constraints?
3. What **spaces need to exist for dialogue and troubleshooting** among agencies and systems responding to domestic violence cases in the court system?

Barriers to accessing court systems for victims and survivors and inclusivity of victim and survivor needs

The Vermont Network will present findings from a **survey developed for victims and survivors** to highlight their experiences with this intercept.

Implications of these findings will **help guide recommendations for improved policies and practices to support victims and survivors** as they navigate the court system.



The next analysis presentation in September 2022 will focus on Intercept 3, Systems Responses.



Intercept 3 involves responses such as incarceration in jail or prison, mental health and substance use assessments, community treatment programs, or DVA programming.



CSG Justice Center staff will analyze data from the Department of Corrections to determine how many people are incarcerated or on community supervision for a domestic violence offense.



CSG Justice Center and the Vermont Network staff will conduct outreach with representatives from the Department of Corrections, substance use and behavioral health providers, DVA programming providers, restorative justice facilitators, and people who have committed domestic violence offenses.

The next presentation will be September 8, 2022.

Thank You!

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<https://csgjusticecenter.org/resources/newsletters/>

For more information, please contact Carly Murray cmurray@csg.org

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