

Kentucky's Justice Reinvestment Initiative

Individual Branch Briefings –
Policy Recommendations

2024



Justice Center
THE COUNCIL OF STATE GOVERNMENTS



Key Challenges

High Prevalence of DV and Victimization: Half of all adults will experience contact sexual violence, physical violence, or stalking in their lifetimes.

Consumes Excessive Resources: In 2022, there were ~39,000 law enforcement responses to DV, the majority of which required follow-up investigations.

Driver of Violent Crime: In Kentucky, almost half of all person (violent) incidents involve domestic violence.

Driver of Recidivism and Other Crime

People with a history of civil protective orders are returning to DOC custody at higher rates than people without this history, ~42% compared to ~39% overall between 2016 and 2020.

Strategies

Strategy 1: Address violent crime

Equip police officers, prosecutors, and judges with the information and tools needed to address DV offenses effectively, while building victim confidence in the justice system.

Strategy 2: Reduce recidivism

Strengthen supervision practices and misdemeanor probation to ensure consistent accountability and support. Enhance jail programming and community-based BIP initiatives to reduce the likelihood of reoffending and promote lasting behavioral change.

Strategy 3: Decrease system impacts

Establish a domestic violence innovation grant to help courts overcome infrastructure challenges, improve data tracking, and address disparities between rural and urban communities to implement best practices effectively.

Overview of Proposed Policy Recommendations

Address violent crime

Policy 1: Ensure police officers, prosecutors, and judges have the necessary information and tools to respond appropriately to people who commit DV offenses.

Policy 2: Ensure accountability for individuals who commit domestic violence.

Policy 3: Increase victim confidence in the criminal justice/legal system.

Reduce recidivism

Policy 4: Strengthen supervision practices.

Policy 5: Improve programming in jails to reduce the likelihood of reoffending.

Policy 6: Strengthen BIP in the community to reduce the likelihood of reoffending.

Decrease system impacts

Policy 7: Create a DV innovation grant that helps courts address infrastructure challenges that get in the way of instituting best practices.

Policy 8: Address disparities between rural and urban areas.

Policy 9: Improve data tracking.

Policy 1

Ensure police officers, prosecutors, and judges have the necessary information and tools to respond appropriately to people who commit DV offenses.



A. Priority: Implement a targeted intervention strategy for people who repeatedly commit domestic violence. Key components of this approach include the following:

- **Enhanced Law Enforcement Response:** Establish protocols for law enforcement to identify individuals that present elevated risk due to repeat domestic violence calls and flag these people for targeted intervention.
- **Focused Deterrence:** Deliver clear, direct warnings to identified individuals about the legal consequences of further violence, combined with offers of support services such as assessments, substance use disorder or mental health services, and Batterer Intervention Programming (BIP).
- **Collaborative Multidisciplinary Teams:** Establish statewide system of multidisciplinary teams (options: by region, jurisdiction, court district) to ensure coordinated response and enhanced service focus for both victim and person who commits DV in repeat DV cases. Allow for virtual meetings to accommodate busy schedules/calendars, rural geography, etc.
- **Community Partnership:** Partner with community organizations to provide comprehensive support for both those committing domestic violence and victims, reducing the risk of reoffending.

Policy 1 (continued)

Ensure police officers, prosecutors, and judges have the necessary information and tools to respond appropriately to people who commit DV offenses.



B. Priority: Require law enforcement officers to improve their responses on-scene.

- Adopt use of a statewide lethality tool encompassing standard questions about sexual assault, stalking, and strangulation, as well as questions related to risk in first response protocols.
- Require the lethality tool results to be attached to the complaint at the time of court filing.
- Implement statutory requirement that the complaint and lethality tool results be provided to the victim.

C. Implement statutory provision authorizing access to the lethality tool results by:

- Any court hearing an associated civil protective order request; or
- Any probation entity performing the pretrial bail evaluation or pre-sentence assessment or providing supervision.

Policy 1 (continued)

Ensure police officers, prosecutors, and judges have the necessary information and tools to respond appropriately to people who commit DV offenses.

D. Require judges to use the results of the lethality tool when considering bail and pretrial supervision. Ensure that standardized training and quality assurance processes are used.

E. As part of the pretrial bail evaluation, in addition to the pretrial assessment currently conducted, include information related to lethality factors for any offense involving intimate partner violence, including the following:

- Use of drugs and/or alcohol at the time of the offense
- Presence of children at the time of the offense
- Use of a weapon
- Element of strangulation or attempted strangulation
- Existence of active or prior orders for protection

Policy 1 (continued)

Ensure police officers, prosecutors, and judges have the necessary information and tools to respond appropriately to people who commit DV offenses.

- F.** As part of the pre-sentence investigation, in addition to the general KyRAS risk/need tool currently being used, the following specialized assessment tools or screens should be required as a component of the pre-sentence investigation for any intimate partner domestic assault conviction or offense arising out of the same set of circumstances:
- A standardized validated domestic violence assessment tool. Examples: ODARA, DVSI-R, SARA
 - A validated substance use disorder (SUD) screening tool if alcohol or drug use is a contributing factor in the current offense or historical pattern of abuse. Examples: TCU-5, SBIRT, SSI
 - A validated mental health screening tool. Examples: CMHS, BJMHS, JSAT

Policy 1 (continued)

Ensure police officers, prosecutors, and judges have the necessary information and tools to respond appropriately to people who commit DV offenses.

G. Implement statutory requirement for full substance use disorder and mental health diagnostic evaluation if screening tools indicate need.

- Include a further requirement that individuals complete any recommended programming or treatment

H. Require IPV training for people working in the criminal justice system (prosecutor, law enforcement, supervision officers, and judges):

- Ensure that local law enforcement officers, and potentially dispatch, have adequate DV-specific training.
- Ensure that judges have adequate DV-specific training and best practices on how to use judicial discretion when hearing DV cases.
- Develop DV bench cards or similar best practice resources for judicial reference/guidance during hearings or when making case-related decisions.
- Require trauma-informed training for court clerks processing protective orders.
- Institute specialized statewide, state-sponsored training for detectives, prosecutors, and judges who specialize in IPV cases.

Policy 2

Ensure accountability for individuals who commit domestic violence.

- A.** Implement statutory requirement for completion of batterer's intervention program if domestic violence assessment tool indicates need.
 - Allow provision for individual sessions with a domestic violence focus if indicated due to specific responsivity factors.
- B.** Require people who commit DV to be held in custody for at least 72 hours following an incident where firearms and/or strangulation were used.
- C.** Establish alternative response options (e.g. diversion, DV Court) for individuals that acknowledge responsibility for the offense.
 - Such programs should fast-track access to BIP and require participant monitoring and accountability for successful completion.

Policy 3

Increase victim confidence in the criminal justice/legal system.

A. Strengthen victim compensation.

- Expand eligibility claims to more family members of a victim of violent crime beyond spouse, parent, or child. *(Adopted by SB 319)*
- Expand eligibility claims arising from murder to any family member related by blood or affinity. *(Adopted by SB 319)*
- Codify “good cause” in Administrative Regulations (AR) using language from the VOCA Fix Act of 2021.
- Seek statute or regulatory change allowing the KY Victims Compensation Board to grant authority to program staff to approve claims without the board’s review when all requirements are met.
- Eliminate the requirement at AR 802 (3)a that an employer verification form be notarized when additional information such as a paystub supports employment and wage information.
- Codify board policies/procedures that support enhanced access to compensation (e.g., 4 weeks bereavement leave in death cases; granting waivers to program requirements when good cause is demonstrated).

Policy 3 (continued)

Increase victim confidence in the criminal justice/legal system.

- B.** Continue leveraging VAWA and VOCA funding for the use of grants that tie directly to improving DV issues in the commonwealth.
 - Kentucky should continue to direct VAWA and VOCA funds to prioritize the following:
 - i. Permanent, supportive housing (VOCA)
 - ii. Services to people from historically marginalized communities (VOCA/VAWA)
 - iii. Emergency financial assistance (VOCA)
 - iv. Increasing access to quality, affordable, and culturally competent legal services (VAWA)
 - v. Dedicated IPV detectives, prosecutors, and judges (VAWA)
 - vi. Multidisciplinary teams throughout the state (VAWA)
 - vii. Improved evidence collection, prosecution, and court approaches to investigating IPV (VAWA)
 - Increase resources to support partnerships between community-based DV services and systems-based organizations serving individuals who have low incomes, immigrants and refugees, who do not speak English, who are LGBTQ+, who are Deaf or Hard of Hearing, who are older adults, or who have a disability, to ensure they receive appropriate assistance and interventions.

Policy 3 (continued)

Increase victim confidence in the criminal justice/legal system.

- C.** Require officers to provide information to victims on services provided by victim advocates.

- D.** Ensure that first responders (law enforcement, court clerks, etc.) are trained about the services available from partner organizations and why providing this information is important.

Policy 4

Strengthen supervision practices.



A. Priority: Implement contractual agreements through legislation between local counties and private probation companies that outline staff training requirements, metrics for success, and standards for client meetings such as contact requirements and content of those meetings.

OR

Require DOC to supervise all misdemeanor and felony DV cases across the state.

Policy 4 (continued)

Strengthen supervision practices.

- B.** Enhance and standardize assessments for supervision to ensure effective supervision and tailored interventions for people with DV histories.
 - Incorporate a DV-specific risk instrument to be used by probation and parole staff for supervision and PSI recommendations.
 - All assessments/screening tools that were not completed via a pre-sentence investigation should be completed upon case intake.
 - Consistent with the risk-need-responsivity principles (RNR), results of the assessments should be reviewed with the individual and used to guide supervision services, case planning, and evidence-based interventions.

- C.** Train probation and parole officers on IPV.

- D.** Develop protocols and practices for regularly checking in with victims and assessing whether things are getting better.

Policy 5

Improve programming in jails to reduce the likelihood of reoffending.



A. Priority: Require DOC to add DV curriculum to the list of allowable programming.

B. Specify that anyone with a DV background should be in the DV programming while in jail.

C. Require BIP in jail to be adjusted to fit the cognitive and criminogenic needs of participants.

Policy 6

Strengthen BIP in the community to reduce the likelihood of reoffending.



A. Priority: Require the development of uniform evidence-based curricula to address higher-risk individuals separately, providing more intensive intervention.

B. Establish an accountability process to ensure people are completing BIP.

C. Hire victim advocates to coordinate safe communication between BIP providers and victims

Policy 6 (continued)

Strengthen BIP in the community to reduce the likelihood of reoffending.



A. Priority: Require the state to pay for BIP.

- Develop a model that allows providers to use a sliding fee scale, mitigating the potential for people who have been harmed by violence to have to pay for the programming that the person who harmed them is required to attend.
- *There are potential opportunities the commonwealth can use with Medicaid 1115 Demonstrations to support Violence Intervention Programs. Most of these are used for community violence interventions such as outreach in hospitals or emergency response. One example is the work done in North Carolina which can be found at <https://www.thehavi.org/cvi-smart-hub>.*

Policy 7

Create a DV innovation grant that helps courts address infrastructure challenges that get in the way of instituting best practices.

A. The grants could be used to do the following:

- Reconfigure courthouses so they are safer for victims (i.e., up-to-date cameras, physical separation from person who committed harm, etc.).
- Create DV specialty court/docket in strategic areas/regions of the state.
- Establish a DV diversion program.

Policy 8

Address disparities between rural and urban areas.

- A.** Address disparate rural access to attorneys by increasing funding for rural civil legal aid organizations to ensure equal access to attorney representation.
- B.** Increase the availability of virtual proceedings.
 - Consider court rules or statute making virtual appearance presumptively available to the victim across all court types unless direct testimony is required.

- C.** Focus on initiatives to remedy legal deserts such as incentives for attorneys practicing in rural areas.
- D.** Improve docket structures to prioritize victim privacy.

Policy 8 (continued)

Address disparities between rural and urban areas.

- E.** Expand specialized family courts in rural areas.
- F.** Ensure that local law enforcement officers, particularly those in rural areas, have access to protection order information on site when responding to incidents.
- G.** Ensure that domestic violence providers and community-based providers are equipped to address gaps in care caused by geographic, cultural, language, religious, and socioeconomic barriers as experienced by victims and survivors.
 - **[ALTERNATIVE]:** Cross-train and educate DV-specific agencies and other community providers that serve demographically specific populations.

Policy 9

Improve data tracking.



A. Priority: Revise AOC offense codes for wanton endangerment, stalking, and other codes to differentiate between DV victims and victims without a DV relationship to the person responsible.



B. Priority: Track both current and past histories of DV among all clients incarcerated and supervised by DOC. Update DOC data system to create a set of DV history fields that capture whether an individual under supervision or incarcerated by the DOC has been a respondent in a civil protective order or has been convicted of a DV offense.



C. Priority: Implement resources to help BIP providers with data collection and meeting data reporting requirements and provide incentives and/or funding for administrative help.

Policy 9 (continued)

Improve data tracking.

- D.** Establish quality assurance processes to ensure fidelity in filling out JC-3 forms. Revise the JC-3 form to allow officers to differentiate between calls where a domestic violence incident could and could not be substantiated. This allows the state to better understand the arrest practices taking place following domestic violence calls.
- E.** Invest in systems to make information about orders of protection accessible across jurisdictions.
- F.** Provide information to judges regarding the racial disparities occurring in the system and strategies to minimize these.

Estimated Impact Associated with a Goal of 25 Percent Fewer DV Incidents and DV Commitments to DOC

- In Kentucky, a 25 percent reduction of reported DV incidents would lower the number of victimizations by nearly 5,000 people per year.
- Additionally, an annual 25 percent reduction of DV reported incidents would lower the state's overall total person crimes by 12 percent.
- Reducing by 25 percent the number of admissions to the DOC for felony C and D domestic violence offenses would result in an average of 36 fewer commitments and avert approximately \$2 million per year.
- Over a 5-year period, there would be over 180 fewer commitments and over \$10 million in averted costs.

Estimated Impact Associated with Reducing Reconvictions for DV Offenses in Kentucky

- Analysis of the AOC data indicated that the annual number of reconvictions for DV offenses of people who had been convicted of a DV offense within the prior 2 years is approximately 965 people.
 - A targeted goal of reducing reconvictions could yield results in the following way:

5% reduction	48 fewer reconvictions
10% reduction	97 fewer reconvictions
15% reduction	145 fewer reconvictions
20% reduction	193 fewer reconvictions
25% reduction	241 fewer reconvictions

- These figures represent an estimate of the potential impact of reducing reconvictions for DV offenses, potentially through improvements in BIP courses that reduce future intimate partner violence. Note that it is not known how many people who were reconvicted for a DV offense within 2 years of a conviction had been ordered to participate in a BIP course. The number of people required to complete a BIP course as a condition of their sentence was not available in the data received for this analysis.

Thank You!

Join our distribution list to receive updates and announcements:

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

For more information, please contact Rhonda Ekwunoh at rekwunoh@csg.org

This project was supported by Grant No. 15PBJA-21-GK-04348-JRIX awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice. To learn more about the Bureau of Justice Assistance, please visit bja.gov.

© 2024 The Council of State Governments Justice Center