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Pretrial and Post-Conviction Use of Batterer Intervention Programs

Report to Maine's Joint Standing Committee on
Criminal Justice and Public Safety
Pursuant to L.D. 150

Prepared by the Maine Commission on Domestic and Sexual
Abuse -- February 2016



Executive Summary and Recommendations

Maine has a serious problem with domestic violence. 13,466 people received services from the member Resource Centers of the Maine Coalition to End Domestic Violence and the member Tribal Advocacy Centers of the Wabanaki Women's Coalition in 2015, including 696 men, and 277 children. Expressed another way, at least 13,189 batterers drove their intimate partners and children to seek refuge out of fear for their wellbeing – many in fear for their lives. And each year, half of Maine's homicides are related to domestic violence.

Citizens concerned about domestic violence in Maine are frustrated and angry when they see the harm batterers cause and demand that something be done to make batterers stop and give survivors both a sense of justice and a chance for life free from abuse.

Since the inception of the battered women's movement, people have been asking what can be done to keep batterers from repeating their controlling and violent behaviors. In addition to providing refuge and support for victims, advocates and their allies have sought ways to make batterers recognize the impact of their behaviors and change the underlying attitudes that they use to justify their violence. While no one has found the perfect answer, 40 years of program development, experience, and research shows that communities can make a significant difference by coordinating efforts across disciplines and systems to hold batterers to account for their actions.

Increasingly, Batterer Intervention Programs (BIPs) are recognized as an important part of a "coordinated community response," but questions persist: Do BIPs work? Who should be sent to a BIP? Should (and if so how) BIPs be integrated with the criminal and civil justice systems? If so, how long should people be required to participate? How should these programs be conducted? How does an offender's participation in a BIP affect their victim(s)? Are BIPS affordable for participants? Who should pay the cost of running BIPs? These questions and more underlay the legislative resolve that framed this report.

Legislative Charge

By order of the legislature, by way of L.D. 150, Chapter 15 Resolves, the Maine Commission on Domestic and Sexual Abuse was asked to "review pretrial and post-conviction use of batterers' intervention programs, including the length of successful programs and sanctions and incentives to encourage full participation. The review was to consider the potential to use batterers' intervention programs before trial, during a period of deferred disposition and after conviction." The Commission was also asked to provide recommendations and suggested legislation.

LD 150 Task Force Observations and Recommendations

The Task Force explored current batterer programs offered throughout Maine, conducted an extensive literature search regarding effectiveness and best practices, heard input from survivors and used expertise within the Task Force to develop its observations and recommendations:

1. The three-fold motivation for developing Batterer Intervention Programs (BIPs) continues to be valid. A BIP uniquely addresses these objectives:
 - a. To provide a mechanism to address victims' wish that batterers would recognize the impact of their behavior, stop the violence, and thereby improve the well-being of their partners and children;
 - b. To provide batterers with an opportunity to recognize and change their abusive behavior, improving the quality of their own lives and those around them, and;
 - c. To provide the criminal justice system with an appropriate education mechanism that would both increase public safety and minimize the incarceration of offenders.

Survivors provided important perspective to the task force. One respondent said of her partner's participation in a BIP, "It is one time during the week when we both know that he is trying to make our relationship better for us."

When a BIP positively impacts batterers' behavior, survivors experience relief, including increased respect and appreciation, indicating that when BIPs work well, the programs impact participants' attitudes as well as behaviors. But when the BIP does not connect well with participants, batterers' behaviors can worsen, indicating the ongoing need for consistent justice system interventions, robust victim services, and monitored adherence to BIP certification standards.

2. Batterer Intervention Programs are often judged in isolation while their effectiveness is dependent upon a coordinated community response functioning overall to hold individuals to account, providing consistent messages to support respectful, non-violent behavior.

The Hornby Zeller Report to the Judicial Branch in Maine recognized Coordinated Community Response (CCR) – “[c]reating strong linkages with a wide range of partners, convening regular meeting with criminal justice and social service partners, and providing education and training to court personnel and partners”¹ – as one of the core principles of

¹ Domestic Violence Docket, *Process and Recidivism Report*, Hornby Zeller Associates for the Maine Judicial

the Domestic Violence or Judicial Monitoring Docket. Maine, however, lacks consistent implementation of CCR teams and practices.

A CCR involves all those who interact with batterers providing consistent messages of accountability, including the batterers' families and peers. BIP providers in Duluth, MN asked 16 men participating in their BIP: "When you were arrested, who was the first person you called? What did they say?" Only one of the men said that the person they called said anything negative about what the offender had done. All the others heard messages that minimized the incident, transferred blame to the victim, and supported the offender's anger at having been arrested.²

3. Maine's courts are ordering 7 out of 10 (68-72%) batterers to anger management and other programs as a condition of probation instead of to a BIP, while only BIP is certified and contextualized within a system of accountability to the community it serves. Battering is about power and control, not anger.

Fundamentally, batterers believe that they are in a position of ownership of their intimate partners (and children) and are entitled to a special status that provides them with exclusive rights and privileges that do not apply to their partners, enforcing unrealistic rules, and placing their own needs first in all things. Anger management counseling does not focus on changing the underlying beliefs and values that frame batterers' justifications for their anger, lacks evidence of effectiveness, and can increase danger to victims.

4. There is substantial research to support Batterer Intervention Programs as an effective contributor to the individual and social change necessary to reduce the occurrence of domestic violence, improving the lives of Maine's families. Furthermore, "[t]here is no evidence that anger management ... programs effectively prevent court mandated abusers from re-abusing or committing new offenses after treatment."³
5. BIPs have minimal resources and are dependent upon participant fees to cover all program costs, which inhibits their ability to sustain and improve programming.

BIPs rely on participant fees and "in-kind" support to sustain them, in part to ensure that no resources intended to assist victims are diverted to supporting batterers. Nevertheless, Task Force members agree with the following 2015 editorial from the Bangor Daily News: "Policymakers need to address the cost of batterers' intervention for those offenders who truly cannot afford the [weekly] charge. Several programs charge on a sliding-fee schedule.

² Scaia, Melissa, E.D., Duluth Abuse Intervention Program, training delivered in Augusta, Maine, Dec. 8, 2015.

³ Klein, Andrew, "Practical Implications of Current Domestic Violence Research, Part III, Judges, Document No.: 222321 (April 2008): 49 (hereinafter "Klein Practical Implications Judges").

... It would not take a large state investment to increase the availability and use of batterers' intervention programs."⁴

6. There is minimal data tracking what happens to offenders from arrest through final disposition in the criminal justice system. What data exists is fragmented and incomplete, inhibiting efforts to develop a comprehensive picture of Maine's criminal justice system response to domestic violence.

An annual report, required by state law, compiling data from domestic violence prosecutors statewide has not been submitted to the three specified legislative committees for several years.⁵ Recent implementation of a common computer data collection system in all District Attorney's Offices may make it possible to generate reports that would track the specific conditions of probation in domestic violence cases so that we might better assess BIP impact on public safety.

7. When women use violence against a male intimate partner, it tends to differ from men's violence against female partners. Frequently, women who are arrested for domestic violence crimes have been battered, usually by the same men against whom they used violence.

Maine's BIPs for women use models that take into account whether there was a context of battering in which female offenders used criminal violence to resist rather than impose power and control. These programs provide the court with an appropriate avenue for female offenders who are also victims of contemporaneous battering to participate in gender specific programs that both address their use of criminal violence and their needs for protection from batterers and long term support to establish lives free from abuse and violence.

Recommendations Regarding Program Approach

1. Retain the gender-based, educational approach currently used in Maine certified Batterer Intervention Programs as appropriate for the vast majority of batterers.
2. Allow voluntary use of pretrial participation in a certified Batterer Intervention Program.
3. In a domestic violence related case, Deferred Disposition with a Batterer Intervention Program as a condition should *only* be used if monitored by a Judicial Monitoring program

⁴ Bangor Daily News, Editorial, Jan. 6, 2015, <http://bangordailynews.com/2015/01/06/opinion/editorials/batterers-intervention-works-maine-should-use-it-more/>

⁵ 5 M.R.S. §204-A requires the Attorney General, working with the district attorneys of the State, to submit an annual report that compiles data from domestic violence prosecutors statewide to the joint standing committees of the legislature with jurisdiction over criminal justice, the judiciary and appropriations.

and supervision by a community agency is also ordered (especially if other conditions are included).

4. Retain the current program duration of 48 weeks based on the time required for the educational process and behavior change.

5. Maintain the current model of independent offender funded BIPs, but create a statewide fund to support truly indigent participants identified through meaningful means testing.

Recommendations Regarding Best Practices for Improving Program Outcomes

6. Create a solid program infrastructure for BIPs in Maine through the coordinated community response structure.

- a. BIPs are key components of a coordinated community response to domestic violence. More formalized CCR teams should be implemented in all prosecutorial districts.
- b. Identify and support funding for teacher training and for BIP representatives to attend CCR meetings and Judicial Monitoring sessions.
- c. Continue implementation within the framework of batterer program certification standards.

7. Require judges to make findings on the record in a domestic violence related case that justify: 1) a disposition that does not include a BIP; and 2) a disposition requiring Anger Management. A new general sentencing provision should identify BIPs as the appropriate effective community intervention in such cases.

8. Oversight of BIP participants through Judicial Monitoring and community supervision with a “swift and certain” sanction for non-compliance is key to positive batterer program outcomes. Judicial Monitoring dockets should be implemented statewide, which will require additional resources for judge time and court clerks.

9. High-risk batterers require ongoing risk management and supervision. Referral agencies should provide risk assessment information to BIPs.

10. Engage diverse community members in a way that is culturally competent and safe for the participants. Diverse populations must be integrated through training and preparation of BIP facilitators to create an inclusive environment reflecting the populations local to the programs.

11. Continue BIP standards accommodation of programming specific for women that acknowledge differences between men and women’s use of violence

12. Implement a process to ensure that prosecutors submit the required annual domestic violence report to allow meaningful review by the legislative joint standing committees specified in existing law. In addition, prosecutors should include the use of certified Batterer Intervention Programs in their written policies⁶ for handling domestic violence matters.

⁶ 19-A M.R.S. §4012 (8) requires that each prosecutorial office have a written policy regarding prosecution of domestic violence cases.

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Task Force Process and Methodology

The Criminal Justice and Public Safety Committee, through L.D. 150, Chapter 15 Resolves, requested the Maine Commission on Domestic and Sexual Abuse to “review pretrial and post-conviction use of batterers’ intervention programs, including the length of successful programs and sanctions and incentives to encourage full participation.” The review was to consider the potential to use batterers’ intervention programs before trial, during a period of deferred disposition, and after conviction. The Commission was also asked to provide recommendations and suggested legislation.

The Commission formed a Task Force, co-chaired by Faye Luppi and Francine Garland Stark, with members including advocates from domestic violence resource centers, batterer intervention program staff, tribal community representatives, Department of Corrections staff, pretrial services representatives, and others. The Task Force held its first meeting in June of 2015 to review the language in L.D. 150, discuss key research areas, and create a timeline for completing the report. Interns at Pine Tree Legal Assistance and the Department of Corrections conducted research over the summer and fall.

Between June 2015, and March 2016, the Task Force held monthly meetings, engaged in an extensive national literature review, conducted a survey of victim/survivors in Maine, compiled data from the Maine Association of Batterer Intervention Programs (MABIP) and Maine Department of Corrections, and developed an outline of recommendations that was delivered to the Commission for discussion and feedback in January 2016. Both Maine Coalition to End Domestic Violence (MCEDV) and Maine Association of Batterer Intervention Programs members support the Task Force recommendations.

The national literature search included reviewing twelve hours of expert video testimony provided to a New Mexico legislative Task Force⁷ formed in 2015 to make recommendations about enhancing the effectiveness of batterer programs.

The Maine L.D. 150 Task Force final report was delivered to the Commission on February 10, 2016, and received a formal vote of approval from the members.

⁷ The New Mexico Batterer Intervention Task Force was formed as a result of NM Senate Memorial 52 to "analyze various aspects of domestic violence offender treatment or intervention programs in New Mexico and to make recommendations for program enhancements". The testimony of various national experts provided on September 11, 2015 may be viewed at <http://www.biscmi.org/new-mexico-batterer-intervention-task-force/>.

Current picture of BIPS in Maine: what do we know?

Maine has a real problem with domestic violence. Maine ranks ninth in the country for domestic violence homicides.⁸ Domestic violence is a significant factor in over half of the homicides committed in Maine, including the vast majority of murder/suicides.⁹ Domestic violence has a “devastating effect on children who witness the violence itself or witness the effects of the violence on the victim/parent. Appropriate batterer intervention programs with oversight and monitoring are an essential component of a coordinated community response to domestic violence. The need for batterer intervention programs still exists in every county in Maine.”¹⁰ Unfortunately, batterer intervention programs are not where these offenders are being sent.

What is a certified BIP?

Maine’s certified Batterer Intervention Programs are designed specifically to intervene with court-referred adults, and are educational programs that constitute “one component of a community coordinated response to domestic abuse where the main goals are: 1) working toward the safety of victims; and 2) holding domestic abuse offenders accountable for their actions.”¹¹ The curriculum must include the following principles:

1. Stress, life crises, and/or chemical dependency are not causes of domestic abuse; however, ongoing substance abuse increases the risk of re-offense;
2. Domestic abuse is one choice a domestic abuse offender makes to gain and then maintain an imbalance of power and control in the domestic abuse offender's relationship with an intimate partner;
3. Domestic abuse offenders are solely and exclusively responsible for their controlling and abusive behavior;
4. The effect of abuse on victims, including children who witness abuse, is harmful; and
5. Abuse is never justified.¹²

⁸ Hench, David. “Maine ranks 9th nationally in rate of women killed by men.” Portland Press Herald 15 September 2015: Accessed 9/22/15 at <http://www.pressherald.com/2015/09/15/maine-ranks-9th-in-rate-of-women-killed-by-men/>; Source document: Violence Policy Center, When Men Murder Women, An Analysis of 2013 Homicide Data, September, 2015.

⁹ BIPs: A Report to the First Regular Session of the 127th Maine Legislature (2015), prepared by the Department of Corrections.

¹⁰ BIPs: A Report to the First Regular Session of the 127th Maine Legislature (2015), prepared by the Department of Corrections.

¹¹ 03-201 Chapter 15, Batterer Intervention Program Certification, section 1 (B). last replaced 2013. Accessed 1/28/16 at www.maine.gov/sos/cec/rules/03/201/201c015.doc. (Hereinafter “BIP Certification”).

¹² BIP Certification, section 4.6.

Batterer Intervention Programs are certified by the Maine Department of Corrections pursuant to the process outlined in 19-A M.R.S. § 4014.

Certified BIPs in Maine

In 2015, eleven certified Batterer Intervention Programs were operating in Maine that provide services to men who have committed domestic violence offenses; eight certified Female BIPs provide services to female offenders. Certified BIPs are not available in every community in Maine; Washington County currently does not have a certified BIP.¹³

In 2015, over half of the 1009 probationers convicted of a domestic violence related offense were ordered by the court to attend anger management (17%), and psychological or “domestic abuse” counseling (55%); only 45% were ordered to attend a certified BIP.¹⁴ Less than 10% of the women were referred to a certified BIP. In 2014, only 32% of the men were order to attend a certified BIP, and 68% other types of “counseling.”

In 2015, 655 men were enrolled in certified BIPs; 224 completed the 48-week program. 123 left without completing, and 48 were expelled and did not complete. 49 of those enrolled were referred by the Department of Health and Human Services, and 20 through the Protection Order process. 46 women were enrolled in a certified BIP for women, and 15 completed.

In 2014, the Maine Department of Corrections began offering at all adult DOC facilities a Family Violence Education Program, a 26-week non-certified program for offenders with a history of domestic abuse. This program does not, however, take the place of a certified Batterer Intervention Program offered in the community.

Offenders participating in certified BIPs as a condition of Deferred Disposition

Deferred Disposition is “a type of plea deal, occurring prior to conviction where a defendant pleads to criminal charges in exchange for meeting certain requirements laid out by the docket within an allotted period of time.”¹⁵ In situations of Deferred Disposition, no one in the criminal justice system is responsible for overseeing compliance with conditions unless the defendant has been released on bail conditions overseen by a pretrial case manager. As reported by the Maine Certified Batterer Program administrators to the certification agency (DOC), 71 men and 10 women were referred to batterer programs in 2015 as a condition of a

¹³ King, Ellis. Certified BIP Monitoring Report to the Maine Department of Corrections. 2015.

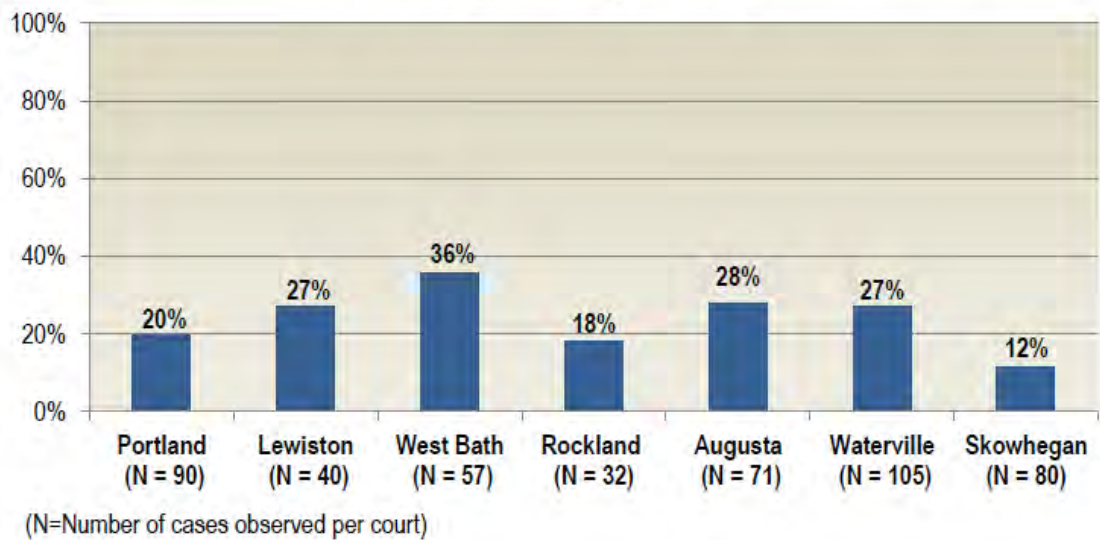
¹⁴ BIPs: A Report to the Second Regular Session of the 127th Maine Legislature (2016), prepared by the Department of Corrections. The percentages add up to more than 100% because some probationers had multiple conditions. The referral numbers reflect only those referred as a condition of probation.

¹⁵ Hornby Zeller Report: 22.

Deferred Disposition. For individuals referred to batterer programs as a condition of Deferred Dispositions, the domestic violence docket “serves as the primary form of oversight.”¹⁶ In fact, stakeholders interviewed as part of the Hornby Zeller Report prepared in 2015 for the Maine Judicial Branch indicated that the Judicial Monitoring docket “was particularly important for offenders who are on deferred disposition, because many of these do not have any other oversight until the end of their deferral period.”¹⁷

The chart below from the Hornby Zeller Report depicts the percentage of domestic violence offenders on Deferred Dispositions at each of the seven Judicial Monitoring locations evaluated in their study, ranging from about 12 percent in Skowhegan to an average of 36 percent of offenders in West Bath.¹⁸

Figure 2. Average Percentage of Offenders on Deferred Disposition at Judicial Monitoring Sessions



Victim Experience and Perspective: Survey of Survivors in Maine

In November and December of 2015, advocates from MCEDV domestic violence resource centers and the Wabanaki Women’s Coalition Tribal Domestic and Sexual Violence Centers interviewed 30 women who had been victims of battering, and whose partners had been ordered to attend one of Maine’s Batterer Intervention Programs. While not a research study,

¹⁶ Hornby Zeller Report: 21.

¹⁷ Hornby Zeller Report: 21.

¹⁸ Hornby Zeller Report: 22; chart copied with permission.

the experiences of these women provide perspective that is essential to understanding the potential impacts of BIPs on the well being of women and children in our state. Our goal with the survey was to explore indicators of what impact BIP participation had on offenders' behavior beyond the question of whether there was additional use of physical or sexual violence. Of the 30 women interviewed, half reported that their partner had stopped using criminal violence against them, while the other half reported that their partner had re-offended.

Understanding that battering involves a pattern of behavior in which batterers use a wide range of controlling tactics, the advocates asked the following question:

- Below are listed some behaviors and tactics used by many abusive people. For each area, please indicate whether your partner's behavior was better, worse, or stayed the same as a result of participating in BIP: (emotional abuse, physical abuse, sexual abuse, isolation, intimidation, minimizing, denying & blaming, using privilege, economic abuse, coercion/threats, using children).

In those cases where the offender did not commit additional violence, the survivors indicated that the offenders' use of nearly all of the abusive tactics diminished, a few stayed the same, and, importantly, none worsened.

In those cases where the offender committed additional violence, the survivors indicated that the offenders' use of all the abusive tactics either stayed the same or, disturbingly, worsened.

Survivors often remain hopeful that their partners will recognize the impact of their abusive behavior so that their relationship may be restored and their children safe, whether the family remains together or not. When asked whether their partners' participation in BIP made them "feel safer," the survivors responses indicated that while 1 in 3 of them did feel safer, the majority did not. Survivors do not approach BIP or other remedies with unrealistic expectations; most often they see beyond the controlling tactics and acute episodes of violence to the whole person that any domestic violence offender is and try to remain cautiously optimistic. One respondent said of her husband's participation in BIP, "It is one time during the week when we both know that he is trying to make our relationship better for us."

Observations from the survey:

1. When a BIP positively impacts participants' behavior, survivors experience relief, including increased respect and appreciation from their partners or ex-partners, indicating that in these cases the BIP program has not only lessened physical violence, but has changed participants' attitudes on a deeper level.

2. When a BIP does not connect well with participants, and participants are not invested in the programs, survivors experience worse abusive tactics, with negative consequences for the survivors and their children and additional involvement with the criminal justice system for the offender.
3. When criminal behavior was reported to law enforcement, the police arrested the offenders and additional criminal justice system consequences followed.
4. While the offenders paid for BIP half of the time, nearly as often the cost of the fees for classes came from the family's resources. Most of the survivors reported that paying the BIP fees did not present a financial hardship, though the money could have been spent on other household needs.
5. The quality of the programs and ability of the participants to connect with the facilitators impact outcomes.

Introduction to “Effectiveness” and Best Practices

Before outlining best practices for Batterer Intervention Programs as requested in the L.D. 150 Resolve, this report will provide a brief introduction to the challenges to evaluating “effectiveness” of these programs, and identify themes that arise from the research literature.

The first challenge in evaluating BIP effectiveness is the lack of a common definition of “effective.” Program effectiveness is typically judged by recidivism¹⁹ as measured by arrest records. But accurate estimates of recidivism are difficult to obtain. Using arrest records alone does not include information from victims. In one study including more than 1000 female victims, only 4-6% of their abusers were arrested for re-abuse, but 31% of those victims reported being physically abused (some burned, strangled, or seriously injured).²⁰

Second, over fifty published evaluations of BIPs in professional journals have attempted to address the “effectiveness” of these programs in preventing re-assaults.²¹ Some are individual outcome studies, others compare men who complete a BIP with non-completers or a control group, or compare violence rates among men who are randomly assigned to different types of

¹⁹ Aldarondo, Etiony. Discussion paper presented at *Batterer Intervention: Doing the work and measuring the progress*, National Institute of Justice, U.S Department of Justice and the Family Violence Prevention Fund with the support of “The Woods” Charitable Foundation, Bethesda, MD), November 2009: 7 (Hereinafter “Aldarondo Discussion Paper”).

²⁰ Klein, Andrew. Practical Implications of Current Domestic Violence Research for Probation Officers and Administrators, BWJP and Advocates for Human Potential, March 2015, www.bwjp.org: 8 (hereinafter “Klein Practical Implications Probation”).

²¹ See Gondolf., Edward. “Evaluating batterer counseling programs: A difficult task showing some effects and implications,” *Aggression and Violent Behavior* 9:605-31 (2004) (hereinafter “Gondolf Evaluating batterer programs”).

intervention.²² Meta-analyses have attempted to summarize the study findings, but suffer from limitations and flawed methodology.²³

Third, the most significant challenge is that research focusing solely on legal recidivism data misses how people's lives are positively affected by a coordinated community response to domestic violence that includes a strong batterer program.²⁴ Batterer programs are but one part of a social intervention to domestic violence that includes arrest, pretrial agencies, prosecution, court, advocacy response, probation, case management, etc.; BIPs should be analyzed within this context and not as a bio-medical concept that regards BIP like a pill.²⁵ It is important to evaluate the programs in the context of this system and not blame one component of the response for what may be a systemic failure. Program effectiveness depends in large part on the coordinated community response context.

Finally, BIPs are often discussed as if they were one standard program. Certification requires that the Maine programs use one of three nationally accepted different models; programs in Maine appear to use parts of each of the three.

Research Themes:

1. Research studies on the “effectiveness” of Batterer Intervention Programs using recidivism data report inconsistent results, but more recent studies show positive outcomes.

The four major early (1992-2005) experimental studies that measured the effectiveness of BIPs using recidivism outcomes reported mixed results.²⁶ But methodological flaws and

²² Aldarondo Discussion Paper: 7-8.

²³ Gondolf, Edward, testimony provided September 11, 2015 to the New Mexico Batterer Intervention Task Force, accessed at <http://www.biscmi.org/new-mexico-batterer-intervention-task-force/>; see also Moyer, To BIP or Not to BIP, Presented to York/Springvale (ME) DV case coordination project advisory board, June 8, 2004: 7 (hereinafter Moyer To BIP or Not to BIP), accessed at <http://www.biscmi.org/aquila/positive-effects-of-bips/>.

²⁴ Gondolf, Edward response to Washington State Institute for Public Policy meta-analysis, Testimony provided September 11, 2015 to the New Mexico Batterer Intervention Task Force, <http://www.biscmi.org/new-mexico-batterer-intervention-task-force>.

²⁵ See Gondolf, Edward testimony provided September 11, 2015 to the New Mexico Batterer Intervention Task Force.

²⁶ See Palmer, S. E., Brown, R. A., & Barrera, M. E. “Group treatment program for abusive husbands: Long-term evaluation.” *American Journal of Orthopsychiatry*, 62, 276-283 (1992); Davis, R. C., Taylor, B. G., & Maxwell, D. D. “Does batterer treatment reduce violence? A randomized experiment in Brooklyn.” Final report for National

Institute of Justice, grant 94-IJ-CX-0047. Washington, DC: National Institute of Justice. NCJRS. NCJ 180772 (2000); Dunford, F. W. The San Diego Navy experiment: An assessment of interventions for men who assault their wives. *Journal of Consulting and Clinical Psychology*, 68: 468-476 (2000); Feder, Lynette & Wilson,

offender sampling limitations (small sample size or unique samples) compromised the ability to draw meaningful conclusions about BIP effectiveness from these results.²⁷ The experiments also did not account for the influence of court oversight, program dropouts, and risk management – they simply focused on the batterer programs in isolation.

Many of the meta-analyses and reviews of batterer program “effectiveness” conclude there are either no effects or modest effects in terms of recidivism. But whether a study is likely to show positive results “appears to be dependent on the methodology.”²⁸ For example, the meta-analysis of program effectiveness featured in the 2015 New Mexico hearings chose only 11 of 34 evaluations as sufficiently rigorous to include in their report, of which only six addressed the Duluth Batterer program model. The study concluded that the Duluth model, the “most common treatment approach, appears to have no effect on recidivism.”²⁹ But this meta-analysis excluded well conducted peer reviewed research, such as Edward Gondolf’s longitudinal 4-year study in four cities that showed evidence of at least a moderate program effect and clear de-escalation of re-assault and other abuse over the four years.³⁰ The Gondolf study had a sample size of 840, with follow up time of 15, 30, and 48 months, including contact with initial partners, new partners, and police reports. Gondolf found that those batterers who completed at least three months of a program were 50% less likely to re-assault their partners in the 15-month follow-up compared to a comparable group who did not complete the program. The study also showed a sharp de-escalation of abuse over the four years; at the four-year follow-up, fewer than 10% of the program participants had re-assaulted a partner in the previous year. It was described in the New Mexico testimony as a

David. “A meta-analytic review of court-mandated batterer intervention programs,” *J. of Experimental Criminology*, 1: 239-62 (2005).

²⁷ Moyer, Robert. To BIP or not to BIP, Presented to York/Springvale (ME) DV case coordination project advisory board, June 8, 2004: 7, Web at <http://www.biscmi.org/aquila/positive-effects-of-bips/>; see also Areán, Juan Carlos. But Do They Work? Asking the Right Questions about Battering Intervention Research, NCJFCJ Webinar, July 14, 2015 (“The four major experimental evaluation of batterer programs show little program effect, but have several conceptual and methodological problems that make them difficult to apply.”) (hereinafter “2015 Webinar But Do They Work?”)

²⁸ Hornby Zeller Report: 17; see, e.g., Smedslund, G., et al. Cognitive behavioural therapy for men who physically abuse their female partner. *The Cochrane Database of Systematic Reviews*, Issue 4, Article No. CD006048, 1007 (www.cochranelibrary.com); Babcock, J., et al. “Does batterers' treatment work? A meta-analytic review of domestic violence treatment outcome research.” *Clinical Psychology Review*, 23. 2004: 1023–1053; Jackson, S. et al. Batterer intervention programs: Where do we go from here? (NIJ Special Report). Washington, DC; National Institute of Justice, U.S. Department of Justice. 2003 (<http://www.ncjrs.gov/pdffiles1/nij/195079.pdf>); Feder, Lynette & Wilson, David. “A meta-analytic review of court-mandated batterer intervention programs,” *J. of Experimental Criminology*, 1: 239-62. 2005; Klein Practical Implications: 24 (35 evaluations of BIPs have “yielded inconsistent results”).

²⁹ Miller, M., Drake, E., & Nafziger, M. *What works to reduce recidivism by domestic violence offenders?* (Document No. 13-01-1201). Olympia: Washington State Institute for Public Policy. 2013, www.wsipp.wa.gov

³⁰ Gondolf, Edward. *Batterer Intervention Systems*. Thousand Oaks, CA: Sage, 2002.

“tour de force of information” that “has taught us more about domestic violence and partner abuse intervention programs...than any other study before or since has ever done.”³¹

Several recent have shown more positive results from BIP participation.³² Two are worth special mention. The study with 488 BIP Emerge program participants conducted in Massachusetts concluded “CBIPS are effective” and significantly reduced domestic violence recidivism.³³ Those who completed the study were 28% less likely to be arrested for a subsequent domestic violence related crime than those who did not complete. Those who did not complete a certified BIP were “three times more likely to recidivate than those who did complete a program.”³⁴

In a recent groundbreaking study in England, a new methodological approach was used to measure “success,” with nuanced findings meant to be useful to policy makers, funders and the programs themselves. The Mirabal study moved on from the “fatalistic nothing works” message to redefine success to measure improvements in the quality of life of victims and their children after an abuser had completed a domestic violence perpetrator program.³⁵ The researchers used measures such as an improved relationship based on respect; expanded “space for action” for women; safety and freedom from violence and abuse for women and children; and safe, positive and shared parenting and healthier childhoods. They concluded that using these measures, the lives of many men, women and children were improved following participation of the abuser in a batterer program.

³¹ Larry Bennett, Ph.D., Indiana University, “Partner Abuse Intervention Programs and Partner Abuse Intervention Systems,” Testimony provided September 11, 2015 to the New Mexico Batterer Intervention Task Force, <http://www.biscmi.org/new-mexico-batterer-intervention-task-force>.

³² See, e.g., Lila, Marisol, et al. “Recidivism risk reduction assessment in batterer intervention programs: a key indicator for program efficacy evaluation.” *Psychosocial Intervention* 23.3 (2014): 217-223; Crockett, Erin E., et al. “Breaking the Mold: Evaluating a Non-Punitive Domestic Violence Intervention Program.” *Journal of Family Violence* 30.4 (2015): 489-499. <http://link.springer.com/article/10.1007/s10896-015-9706-x#page-1>, Eckhardt, C. et al. “The effectiveness of intervention programs for perpetrators and victims of intimate partner violence,” *Partner Abuse* 4.2 (2013): 196-231, *cited in* Hornby Zeller Report: 19-20.

³³ Mazzola, Breaking the Cycle: The Effects of Batterer Intervention Programs on Domestic Violence Recidivism in Massachusetts, Findings from Independent Court-Sponsored Evaluation of Emerge Recidivism Rate, Harvard University John F. Kennedy School of Government Policy Analysis Exercise, May 15, 2015: 4 (hereinafter “Mazzola, Breaking the Cycle”).

³⁴ Mazzola, Breaking the Cycle: 4.

³⁵ Kelly, L. and Westmarland, N. Domestic Violence Perpetrator Programmes: Steps Towards Change. Project Mirabal Final Report and Executive Summary. London and Durham: London Metropolitan University and Durham University. 2015 (hereinafter the “Mirabal Report”), accessed at <https://www.dur.ac.uk/criva/projectmirabal>; see also Carter, Lucy S. “Batterer Intervention: Doing the Work and Measuring the Progress; A report on the December 2009 Experts Roundtable.” *Family Violence Prevention Fund/National Institute of Justice* (2010): 2-21: 8, http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Batterer%20Intervention%20Meeting%20Report.pdf, accessed 1/28/16 (hereinafter Carter NIJ Report) (BIPs must define program success in relation to the safety and wellbeing of the women and children affected by the violence).

Mirabal researchers overall were “optimistic” about the ability of batterer intervention programs to play an important part in ending domestic violence.³⁶ The National Institute of Justice Roundtable participants agreed that BIPs are successful with some men who batter.³⁷ Finally, the Hornby Zeller Report concluded based on their research that “future efforts should focus on how to improve the programs rather than dismissing them as ineffective.”³⁸

2. There is no evidence that alternatives to BIPs reduce re-assaults.

Alternative interventions to BIP are ordered as a probation condition in approximately 65% - 72% of cases involving domestic violence in Maine. Examples of these alternative interventions include: anger management counseling, individual counseling, and “domestic violence” counseling, among others. Anger management in particular is not supervised, the programs are not certified and focus less on violent behavior and accountability, and are shorter in duration.³⁹ In addition, anger management programs are not required to have a relationship with domestic violence advocacy centers, and are not required to contact victims. There is also “no requirement yet for therapists to be trained in domestic violence prevention.”⁴⁰ In contrast, BIPs are required to be certified and monitored, with trained teachers who maintain contact with victim advocacy organizations.

National research indicates “battering by males is typically about power and control and not about anger issues or typical psychological issues.”⁴¹ When the behaviors associated with battering are attributed to substance abuse or mental health problems, the underlying belief system that causes battering behavior goes unaddressed. While some batterers may also have problems with addiction and/or mental health, these issues “should not be seen as the cause of the battering but rather as an important aggravating factor.”⁴²

Furthermore, evidence is lacking to support the practice of alternative interventions. “There is no evidence that anger management or couples counseling programs effectively prevent

³⁶ Mirabal Study: 46.

³⁷ Carter NIJ Report.

³⁸ Hornby Zeller Report: 20.

³⁹ See BIP vs. Anger Management chart, Appendix C.

⁴⁰ Rhoda, The Offending Dilemma: Maine fails to put batterers in programs that address roots of domestic violence- and pays for it, BDN Maine Focus, Jan. 5, 2015, www.bangordailynews.com. Mental health professionals (both candidates for licensure and those renewing their licenses) will be required in 2020 to show proof of a certain number of hours of training on intimate partner violence. See P.L. 232 (2013) (L.D. 1238).

⁴¹ BIPs: A Report to the First Regular Session of the 127th Maine Legislature (2015), prepared by the Department of Corrections.

⁴² Bancroft, Lundy R., Silverman, Jay G., and Ritchie Daniel, “The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics, SAGE Publications, Inc., Thousand Oaks, CA, 2012: 23 (hereinafter “Bancroft The Batterer as Parent”).

court mandated abusers from re-abusing or committing new offenses after treatment.”⁴³ In fact, in one recent study,

... those who completed anger management recidivated at higher rates than those that completed batterer intervention programs even though those referred to batterer programs had significantly more criminal history, including more past order violations, more long standing substance abuse histories, and less education than those referred to anger management.⁴⁴

The Hornby Zeller Report likewise noted the research showing that anger management alone is not an appropriate sentence in domestic violence cases.⁴⁵ The goals of Batterer Intervention Programs involve ending violent, abusive and controlling behavior; increasing victim safety; and holding the batterer accountable, but “the only goal of anger management is to control and express anger appropriately.”⁴⁶ Moreover, anger management facilitators are not generally trained in domestic violence issues. These programs generally “undercut batterer accountability because they permit batterers to view their violent behavior towards their partner as uncontrollable and unavoidable.”⁴⁷

Research supporting other innovations such as diversified programming for batterer types and couples counseling is “generally insufficient, inconclusive, or simply weak.”⁴⁸ The innovations that are promoted “thus far fall substantially short of evidence-based practice, while using evidence-based practice standards to question stand-alone batterer programs.”⁴⁹

3. Completers reoffend less often than dropouts.

In his often-cited 2004 study, Maine’s Dr. Robert Moyer, Bates professor emeritus, concluded that BIP participants who complete the program consistently reoffend less often than those who drop out of the program. “[O]ne thing doesn’t vary: In every single case completers reoffend less often than dropouts do. I have read more than 300 studies in the

⁴³ Klein Practical Implications Judges: 49.

⁴⁴ Klein Practical Implications Judges: 48.

⁴⁵ Hornby Zeller Report: 42.

⁴⁶ Hornby Zeller Report: 42.

⁴⁷ A Report of the Domestic Violence Committee of the Assoc. of the Bar of the City of New York: *Choosing Between Batterers Education Program Models: Recommendations to the New York City Domestic Violence Criminal and Family Courts*, October 2004: 6-7, accessed at <http://www.nycbar.org/pdf/report/BatterersReport%20FinalOct13041.pdf>.

⁴⁸ Gondolf, Edward. *The Future of Batterer Programs: Reassessing Evidence-based Practice*. Boston: Northeastern Univ. Press, 2012: 161. Print (hereinafter “Gondolf, The Future of Batterer Programs”).

⁴⁹ Gondolf, The Future of Batterer Programs: 164; *see also* Gondolf, Edward. “Weak Evidence for Alternative Approaches to Batterer Intervention,” *Aggression and Violent Behavior* 16: 347-353, (2011), accessed at www.elsevier.com/locate/aggviobeh.

field of domestic violence and this is the most consistent set of data I have ever seen. And it is not a small effect. Averaging over all the studies assembled...dropouts are more than twice as likely to reoffend as completers are” (emphasis in original).⁵⁰

Other national researchers have come to the same conclusion. Quasi-experimental evaluations of BIPs indicate “men who complete the programs re-assault their partners considerably less than those who do not.”⁵¹ In an analysis of whether those who complete batterer programs do better than those who fail, it was concluded that abusers who complete batterer programs “are less likely to re-abuse than those who fail to attend, are noncompliant, or drop out. The differences can be substantial.” In the four-year longitudinal Gondolf study, the BIP participants who completed the programs reduced their risk of re-assault in the range of 46-66%; in a Massachusetts study over six years, those who completed a certified BIP were “significantly less likely to be re-arraigned for any type of offense, a violent offense, or a protection order violation;” and a Bronx court study reported that non-completers were four times more likely to recidivate than completers.⁵²

A Massachusetts researcher in a recent study of 488 abusers similarly found that those participants who completed the program were 28% less likely to recidivate than those who did not. Those who did not complete the program were three times more likely to re-assault than those who did. “This result is highly statistically significant and remains so, even when controlling for factors that typically exacerbate DV, such as significant prior criminal history and young age.”⁵³

4. A high-risk subgroup of abusers is responsible for three-quarters of re-assaults, severe injuries and lethality.

Gondolf’s four-year longitudinal study has identified a high-risk subgroup of abusers responsible for the majority of re-assaults, severe injuries and lethality. “There is clearly a subgroup of men who appear to be unresponsive to batterer programs, regardless of the approach or the type of batterer. The new psychology of batterers does not identify these men or offer a treatment that would necessarily improve the outcomes overall. In our research the most dangerous of these men dropped out of other programs and resisted psychotherapy or mental health treatment.”⁵⁴

⁵⁰ Moyer, To BIP or not to BIP: 8.

⁵¹ Aldarondo Discussion Paper: 9.

⁵² Klein Practical Implications Probation: 27-28.

⁵³ Mazzola, Breaking the Cycle: 4.

⁵⁴ Gondolf, Future of Batterer Programs: 125.

In his study, there was a clear de-escalation of re-assault and other abuse, and the “vast majority of men” referred to a batterer program appeared to stop their assaultive behavior and “reduce their abuse in general.”⁵⁵ However, approximately a quarter of the men re-assaulted their partners more than once; most of these men began re-assaulting shortly after program intake, and were responsible for over 80% of the injuries.⁵⁶ This subgroup of men (about 20% of the total) physically abused their partners early and repeated the violence later in the study. These men had a history of past violence and criminal history involving a range of crimes in addition to domestic violence. The challenge is how to better identify them, “contain these men and protect their partners.”⁵⁷

Best Practice Recommendations Regarding Program Approach

1. Retain the gender-based, educational approach currently used in Maine certified Batterer Intervention Programs as appropriate for the vast majority of batterers.

The term “gender-based, educational programs” refers to a curriculum approach that focuses on identifying and taking responsibility for violence and abuse towards one’s female partner, and “exposing and altering the attitudes, thought patterns, and beliefs that reinforce that behavior.... ‘Gender-based’ indicates that the cognitive aspects are generally rooted in socialization regarding male and female roles and expectations.”⁵⁸ Typically, a certified batterer program is a group-educational approach that teaches offenders about topics such as: the history of oppression, privilege, honesty, accountability, the cycle of violence, violence prevention strategies, parenting, beliefs that support violence, community and partnership, and emotion regulation. This educational intervention engages with participants in learning discussions as a means to elicit their potential to change their behavior. The group education component in tandem with other elements of community response to domestic violence is the two-key approach to effectively changing outcomes for the certified BIP participants and their families.⁵⁹

In Maine, these gender-based educational programs for men are currently based on the Duluth, Emerge, and New York Volunteer Counseling Service national models, which are

⁵⁵ Gondolf, Evaluating batterer counseling programs: 623.

⁵⁶ Gondolf, Evaluating batterer counseling programs: 623.

⁵⁷ Gondolf, Future of Batterer Programs: 169.

⁵⁸ Gondolf, *Summary: Research Evidence on Batterer Program Effectiveness*: 2011.

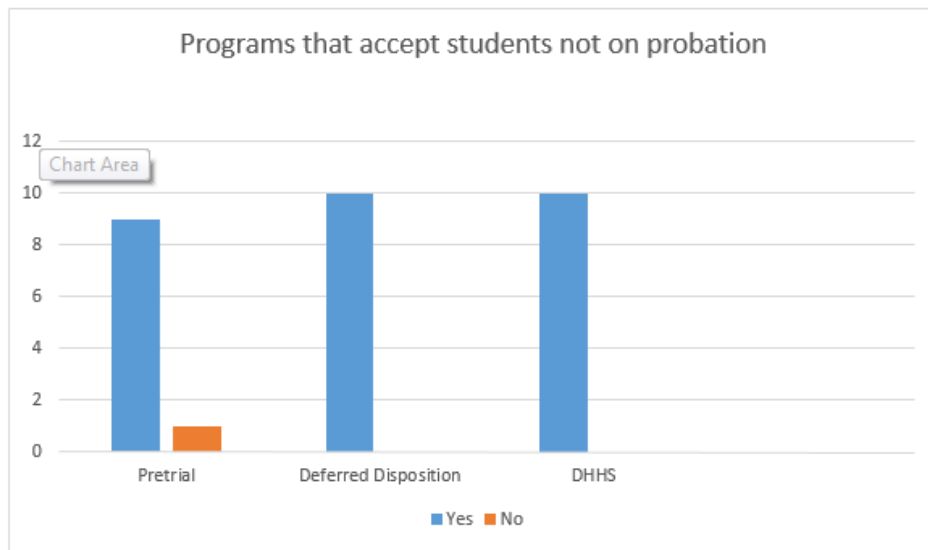
⁵⁹ See Radatz & Wright, “Integrating the Principles of Effective Intervention into Batterer Intervention Programming: The Case for Moving Toward More Evidence-Based Programming, Trauma, Violence & Abuse,” (2015): 11 (recommend all BIPs follow the cognitive-behavioral approach because it will likely yield higher rates of recidivism reduction) (hereinafter “Radatz Integrating the Principles”)

approved in the Batterer Intervention Program standards. The Task Force sees no reason at this time to recommend other models.

2. Allow voluntary use of pretrial participation in a certified Batterer Intervention Program.

Most Maine certified BIPs currently accept participants in the pretrial phase of the criminal justice system. Nine of the ten programs reporting results to the Maine Association of BIPs accept pretrial participants.

Figure 2



Research also shows that rapid response following a domestic violence offense results in a higher completion rate of the program, and therefore a lower recidivism rate. Pretrial referral appeared “particularly effective” in one of the Gondolf multi-site study locations.⁶⁰

Requiring attendance by defendants at a batterer program at the pretrial stage of the criminal justice process, however, is problematic on a number of levels. First, required attendance as a condition of bail has the potential to violate a defendant’s 5th and 6th Amendment rights and to compromise an individual’s presumption of innocence. The Maine certified BIP standards

⁶⁰ Gondolf, Evaluating Batterer programs: 624.

allow for the use of three nationally accepted models for facilitating BIPs. Currently 99% of all certified programs in Maine use a model that requires defendants/participants to publicly speak about their most recent incident of violence. All participants should be warned that what is said in the classroom is not confidential.

Second, given the 48-week duration of Maine certified BIPS, requiring pretrial completion of a BIP could violate a defendant's right to a speedy trial.

The imposition of a BIP pretrial also has the potential to conflict with the Maine Bail Code, which requires that bail must be least restrictive and that conditions of bail directly correlate to the intent of bail.⁶¹ Judicial officers are charged with making a determination of the need for conditions that will reasonably ensure the appearance of the defendant at the time and place required, will reasonably ensure that the defendant will refrain from any new criminal conduct, will reasonably ensure the integrity of the judicial process and the safety of others in the community. No research currently indicates that participation in a BIP reasonably ensures a victim's or community safety or has any impact on a defendant's appearance or the integrity of the judicial process.

Little research can be found about the use of BIPs during the pretrial phase in other jurisdictions. In Florida, as part of the state's Pretrial diversion program, all offenders entering the program are required to sign a contract waiving their right to a speedy trial.⁶²

Therefore, Batterer Intervention Programs should be allowed to accept participants who enroll before their trial dates, and continue post-sentencing, but pretrial attendance cannot be mandated.

3. In a domestic violence related case, Deferred Disposition with a Batterer Intervention Program as a condition should *only* be used if monitoring by a Judicial Monitoring program and supervision by a community agency are also ordered (especially if other conditions are included).

As outlined in Section II above, the use of Deferred Dispositions is increasing in domestic violence cases. The Hornby Zeller Report noted that between 12 and 36% of the cases observed in the (Domestic Violence) dockets were those participants with a Deferred Disposition.⁶³

⁶¹ 15 M.R.S. §§1002, 1026(3).

⁶² Florida Sate Attorney's Office, Misdemeanor and PreTrial Diversion Program, <http://www.sa18.state.fl.us/page/misdemeanor-diversion.html>. South Carolina has similar standards and allows an offender to attend a pretrial program only once. S.C. Code Ann. Title 17 Ch. 22 Art. 1 sec. 17-22-50.

⁶³ Hornby Zeller Report: 22.

The Maine Criminal Code allows for a Deferred Disposition in a criminal case. After accepting a guilty plea, the court may order sentencing deferred and impose requirements “considered by the court to be reasonable and appropriate to assist the person to lead a law abiding life.” 17-A M.R.S. § 1348-A. Conditions of a Deferred Disposition may require that the defendant not have contact with a victim, refrain from use of alcohol or illegal drugs, and complete counseling and education requirements such as a Batterer Intervention Program.

In most jurisdictions, however, it is the defendant’s responsibility to provide documentation to the District Attorney’s Office showing compliance with the conditions. There is limited oversight and supervision of the defendant during the term of the deferment. Interviewees for the Hornby Zeller Report indicated that Judicial Monitoring was “particularly important” for offenders on Deferred Disposition, because many of these “do not have any other oversight until the end of their deferral period.”⁶⁴ For offenders on Deferred Dispositions, Judicial Monitoring is often the only mechanism that ensures offenders are fulfilling their requirements. In some jurisdictions, Pretrial Services are tasked with supervising Deferred Disposition defendants and reporting compliance or non-compliance, but the practice is inconsistent.

Deferred Dispositions are often ordered in cases of the defendant’s first interaction with the criminal justice system. Therefore, accountability matters. Supervision is key; timely and appropriate consequences for non-compliance with conditions and support for the defendant’s early engagement in a batterer program will reduce re-assaults and improve victim safety.

It is the Task Force recommendation that in a domestic violence related case, Deferred Disposition with a Batterer Intervention Program as a condition should only be used if monitoring by a Judicial Monitoring program and supervision by a community agency are also ordered (especially if other conditions are included). This will require additional resources to address disparities because these resources are only inconsistently available in various parts of the state.

4. Retain the current program duration of 48 weeks based on the time required for the educational process and behavior change.

A shift nationally is occurring in the debate about how long batterer programs should be in order to effectively help offenders change their behavior. This question is not a simple one. Program duration considerations are inextricably tied to the swiftness of response to the problem behavior. The link between the two intervention aspects (duration of intervention

⁶⁴ Hornby Zeller Report: 21.

and swiftness of response) is crucial to whether or not the intervention impacts the target behavior. This method for shaping behavior, called behavior modification, has a significant scientific research base and has informed disciplines such as Judicial Monitoring for drug related criminal behavior (i.e., drug courts).

One researcher explained in 2012 that in order for an intervention to connect with the problem behavior, related interventions must be timely to be meaningful:

The unfortunate reality is that the effects of rewards and sanctions begin to decline within only a few hours or days after a participant has engaged in a target behavior. This has important implications ... Drug Courts have substantially better outcomes when participants are required to appear in court no less than every two weeks...this allows the team to respond relatively quickly to achievements and infractions, therapy producing better outcomes in shorter periods of time.⁶⁵

There is limited research, however, to inform exactly what the most effective duration of a Batterer Intervention Program is and why. The important role of swift appropriate response (with first offense domestic violence crimes as well as re-assaults) is clearly described in the research: swift response increases positive outcomes.

Currently, Violence No More, a Maine-based BIP, is initiating a research project with Colby College Researcher, Tarja Raag Ph.D., to better understand the nuances involved in effective program duration and delivery. Dr. Raag notes:

Specifically, two things in timing are needed to create change in domestic violence behavior. First, a swift response. Second, an understanding of psychological relationship to awareness of self (metacognitive self-efficacy). Swift response is the easier element to manage. Determining when the self-awareness hits, is not as simple because it is an internal process. Moreover, it is in that phase, when awareness hits, that most perpetrators of violence will also feel most vulnerable, increasing potential for resistance leading to drop out. Timing interventions based on understanding developmental and learning profiles of students is crucial to shifting from violent behavior to non-violent behavior.⁶⁶

Drs. Raag and Gondolf both refer to an initial phase of program exposure where behavior change is pending but not yet visible: a “take effect period.”⁶⁷ This is the timeframe from

⁶⁵ Marlow, D. Behavior Modification 101 for Drug Courts: Making the Most of Incentives and Sanctions, National Drug Court Institute. The Drug Court Practitioner Fact Sheet (Sept. 2012): 3.

⁶⁶ Tarja Raag, PhD. Associate Professor of Psychology at Colby College in Waterville, ME - Maine Association for Batterer Intervention Programs Conference: “Measuring the Outcomes of Our Work” presentation date: 10/30/15.

⁶⁷ Gondolf, Evaluating batterer programs: 617.

first contact to observable behavior change, due to the initial resistance to the cultural change. Dr. Raag describes the gender related cultural pressure throughout the intervention period as “working uphill.” When the resistance begins to shift, the student enters the recognition phase, marked by risk of reverting back to old behaviors and vulnerability. At approximately 24-26 weeks, the acceptance phase begins and the BIP participant can become action oriented in implementing changes in attitudes, beliefs and behaviors. Having support in navigating challenges to the newer world view will reinforce and support the person’s ability to integrate behavior change.

The personal change process required of offenders enrolled in a BIP related to their socially entrenched learned behaviors is no small endeavor. The research suggests that the behavior change process takes significant time and increased focused coordination of community resources. The available research also suggests that students and their communities benefit most from program lengths similar to those already in place in Maine. The Mirabal researchers may have said it best:

Many men, at the end of the programme, note that it takes consideration, time and reflection to understand, unpick and change embedded patterns of behavior and habits. Many women noted that at the outset their partners thought they could attend, ‘tick a few boxes’ and carry on as usual. It is the length and depth of [BIP]s which makes it possible to go beyond simple behaviour disruption to deeper changes which make a difference in the lives of women and children. Short untested programmes run a number of risks, not least that they play into the instrumental orientation that many men have at the outset, and so are unlikely to address the deeper issues which matter to women in terms of their and children’s safety and the restoration of their voice and space for action.⁶⁸

Nineteen of 39 states require program duration for BIPs between 26-48 weeks. Four require 52 weeks. In 17 states, the duration of the program is 24 weeks or less. Although Gondolf reported that program length of more than three months does not make a significant difference in recidivism, he also reported that 75% of all re-assaults occur during the initial six months post-referral to BIP, which highlights the need for “front-loading” efforts to prevent re-offense.⁶⁹

Therefore, the Task Force members do not see any basis for recommending a change in the duration of Maine’s certified Batterer Intervention Programs.

⁶⁸ Mirabal Report: 46.

⁶⁹ Gondolf, Evaluating Batterer programs: 617.

5. Maintain the current model of independent offender funded BIPs, but create a statewide fund to support truly indigent participants identified through meaningful means testing.

The fee structure of Maine BIPs is varied. The chart below reflects responses by the eleven certified BIPs. The lowest fee per class is \$15.00 with the highest being \$50.00. The average is \$35.00. 60% of the programs reported using a sliding fee structure. Intake fees ranged from \$20.00 to \$90.00.

Sliding fee	Intake fee	Fee		Fee Min	Fee Max
no	90	40		40	40
no	75/60	35		35	35
no	50	35		35	35
no	50	30		30	30
no	20	30		30	30
yes	50	50		25	50
yes	50	50		20	50
yes	50	25		20	25
yes	50	40		15	40
yes	40	20		20	20
yes	40	30		20	30

Task force members support the long-standing tradition that Batterer Program participants should be responsible for the cost of the program. Even indigent participants should be responsible for some minimum amount of the cost of the program. Nevertheless, members agree with the following 2015 editorial from the Bangor Daily News:

Policymakers need to address the cost of batterers’ intervention for those offenders who truly cannot afford the [weekly] charge. Several programs charge on a sliding-fee schedule. ... It would not take a large state investment to increase the availability and use of batterers’ intervention programs.⁷⁰

The Task Force heard anecdotal accounts about the cost of a BIP being the biggest barrier to requiring attendance. In addition, the Washington County program and one in Rockland recently closed because the program administrators couldn’t afford to stay open. For these

⁷⁰ Bangor Daily News, Editorial, Jan. 6, 2015, <http://bangordailynews.com/2015/01/06/opinion/editorials/batterers-intervention-works-maine-should-use-it-more/>

reasons, the Task Force recommends the creation of a statewide fund that could be accessed by truly indigent BIP participants to support their attendance. Access to the fund should only occur after meaningful means testing; income information collected by the Judicial Branch to determine access to counsel could be useful in this process. Basic funding to ensure BIPs, especially those in rural areas, can be sustained is needed, along with further discussion to determine the appropriate administrator for such funding, and guidelines for its use.

Best Practice Recommendations for Improving Program Outcomes

6. Create a solid program infrastructure for BIPs in Maine through the coordinated community response structure.

a. BIPs are key components of a coordinated community response to domestic violence. More formalized CCR teams should be implemented in all prosecutorial districts.

Batterer Intervention Programs should be viewed as “part of a broader systemic response designed to curb and eliminate” intimate partner violence.⁷¹ Coordinated community response networks can “significantly enhance the efficacy of various interventions and further reduce IPV recidivism.”⁷² A coordinated community response (CCR) involves integrating the activities of advocacy organizations, the criminal justice system, social service and health agencies, and batterer programs into a network that enhances victim safety and offender accountability. While the research on coordinated response is mixed, CCR networks have been described by some as “the best hope for improving the social responses to domestic violence” and “a winning strategy.”⁷³

Successful batterer programs must effectively integrate their efforts with these community response networks, and be part of a local network of accountability. As one of the key elements of a model BIP, the 2009 National Institute of Justice Experts Roundtable recommended both “[p]artnering with other individuals and organizations to enhance accountability and offer a range of services,” and developing coordinated community responses that “go beyond legal sanctions” to include resources such as substance abuse treatment, parenting classes that engage men early in their role as parent, and post-prison reentry.⁷⁴

⁷¹ Aldarondo Discussion Paper: 1.

⁷² Aldarondo Discussion Paper: 12-13 (multiple studies cited where CCR reduced recidivism).

⁷³ Aldarondo: 11, 14 (citations omitted) (note these key elements cited in Hornby Zeller at 16.)

⁷⁴ Carter, Lucy S. “Batterer Intervention: Doing the Work and Measuring the Progress; A report on the December 2009 Experts Roundtable.” Family Violence Prevention Fund/National Institute of Justice (2010): 2-

When BIPs are an integral part of a coordinated community response to domestic violence, recidivism is reduced. A Duluth study reported “encouraging results” of “evidence of reduced recidivism rates with the enhanced coordinated responses;” the same study reported that improved coordination through the sharing of risk information among criminal justice professionals “can reduce recidivism among men who abuse their partners.”⁷⁵

The Hornby Zeller Report to the Judicial Branch in Maine recognized Coordinated Community Response – “[c]reating strong linkages with a wide range of partners, convening regular meeting with criminal justice and social service partners, and providing education and training to court personnel and partners”⁷⁶ – as one of the core principles of the Domestic Violence or Judicial Monitoring Docket. Maine, however, lacks consistent implementation of CCR teams and practices. Cumberland County has had a CCR team and director since 1998, and implemented a High Risk Response Team in 2012. Other counties are in various stages of implementing high risk teams, but many lack the formal CCR foundation. The Hornby Zeller Report in its final recommendations highlighted the need for training for CCR members about domestic violence: “All participants who may be involved in a domestic violence case—including judges, clerks, advocates, prosecutors, defense attorneys, probation officers, and law enforcement—should be educated on the dynamics of abuse and effective interventions in order to improve their operations and response.”⁷⁷

In the survey of survivors conducted by MCEDV in preparing this report, only half of the women whose partners were attending BIP reported the re-assaults committed by their BIP-enrolled partners to the police. Even when there has been a history of criminal justice involvement, victims may not reach out to police for a variety of reasons, fear of retaliation by the batterer of particular concern. In order to address the safety risks that batterers pose to victims, close linkages between BIPs, the criminal justice system, and domestic violence resource centers are essential. The crisis intervention, safety planning, legal services, shelter, housing, and support provided by Maine’s domestic violence resource centers can help victims find the refuge, resources, and support to be able to take the risk of reporting and attesting to their batterers’ criminal behaviors.

A CCR involves all those who interact with batterers providing consistent messages of accountability, including the batterers’ families and peers. BIP providers in Duluth, MN

21, 8 (seven key elements of a BIP cited in Hornby Zeller Report at 16); see also Klein, Practical Implications of Current Domestic Violence Research, Part III Judges, Document No.: 222321, (April 2008): 49 (studies suggest alcohol and drug treatment may be a necessary component of successful intervention to prevent re-abuse).

⁷⁵ Shepard, Melanie et al., “Enhancing Coordinated Community Responses to Reduce Recidivism in Cases of Domestic Violence,” *Journal of Interpersonal Violence*, Vol. 17, No. 5 (May, 2002): 568.

⁷⁶ Hornby Zeller Report: 29.

⁷⁷ Hornby Zeller Report: 42.

asked 16 men participating in their BIP: “When you were arrested, who was the first person you called? What did they say?” Only one of the men said that the person they called said anything negative about what the offender had done. All the others heard messages that minimized the incident, transferred blame to the victim, and supported the offender’s anger at having been arrested.⁷⁸

In addition to having a strong, formal CCR in place, the importance of training, education and the engagement of the health care system, faith communities, employers, and the community at large cannot be overstated. Both domestic violence perpetrators and victims hear messages regarding their choices and consequences in every part of their lives. BIP facilitators and domestic violence resource center advocates and their colleagues from the CCR providing collaborative training and community education is key to achieving the broader social change agenda of addressing batterers’ sense of entitlement to commit domestic abuse and violence.

b. Identify and support funding for teacher training and for BIP representatives to attend CCR meetings and Judicial Monitoring sessions.

The 2009 NIJ Experts Roundtable recommended creating a “solid program infrastructure, which includes having ongoing training and supervision of staff and implementing policies that are consistent with best practices.”⁷⁹ It is critical to sustain quality teachers with the ability to engage program participants. Batterer programs should have formal training as well as “on-the-job training that encompasses a variety of ‘best practices’ topics on an annual basis.”⁸⁰

The Task Force recognizes the value in the national BIP models such as Duluth, Emerge, Volunteer Counseling Service (New York Model), and others that have historically delivered the training for new certified BIP staff in Maine. Training Maine BIP educators in these national models, however, has significant logistical limitations (distance, cost, access to appropriate ongoing training). The financial resources to support ongoing training for BIP educators, participation in CCR meetings, and Judicial Monitoring sessions should be provided by a statewide training fund administered by the Department of Corrections as part of their oversight and certification of Batterer Programs. Based on prior training event expenses, one annual training for the approximately 30 BIP teachers in Maine would cost \$4650.

c. Continue implementation within the framework of batterer program certification standards.

⁷⁸ Scaia, Melissa, E.D., Duluth Abuse Intervention Program, training delivered in Augusta, Maine, December 8, 2015.

⁷⁹ Carter NIJ Report: 7.

⁸⁰ Radatz Integrating the Principles: 11.

The current Batterer Intervention Program Certification process is outlined under Maine Department of Corrections rule (found on the Secretary of State website, section 03-201, Chapter 15). This rule outlines the procedures and standards governing the certification and monitoring of the Batterer Intervention Programs, pursuant to 19-A M.R.S.A. § 4014.

The statute and rule make the Maine Department of Corrections (DOC) the lead agency responsible for implementation of these standards, through its Victim Services Coordinator. Pursuant to 17-A M.R.S.A. § 1202 (1-B), only a BIP that holds a valid certificate granted by the DOC may be utilized for court referrals. A certificate is valid for two years unless suspended or revoked.

The statute and rule require that the DOC, in consultation with the Maine Commission on Domestic and Sexual Abuse, develop and, on a biannual basis, review a certification process for Batterer Programs. The review process may include input from various agencies and organizations listed in the rule and any others deemed appropriate by the DOC.

BIP Certification Standards review is currently in progress, the review committee having met every other month since April 2015. It is likely the committee will have several more meetings. Once a draft document has been developed, the document will be submitted to the Governor's Office and the Attorney General's Office for review in accordance with the rule-making process, as well as being put out for public comment.

This review process is essential to continue discussions and review current trends impacting BIPs in order to promote transparency and overall efficacy.

7. Require judges to make findings on the record in a domestic violence related case that justify: 1) a disposition that does not include a BIP; and 2) a disposition requiring Anger Management. A new general sentencing provision should identify BIP as the appropriate effective community intervention in such cases.

As discussed in this report Section IV. 2, anger is not the cause of battering but its result. Certified Batterer Intervention Programs are uniquely designed to address the beliefs and values underlying batterers' choices to use criminal violence against their intimate partners and to engage in ongoing patterns of coercive, controlling behaviors. Batterers having mental illness, addiction issues, or other co-occurring challenges may exacerbate their domestic violence crimes. In such cases, both BIPs and interventions for their other challenges is the appropriate approach.⁸¹

⁸¹ Bancroft The Batterer as Parent: 24-25.

In fact, most state BIP standards prohibit generic anger management programs or couples counseling as alternative forms of “treatment” on their own.⁸² In a large recent study in Massachusetts of 945 protection order violators, the participants were ordered to a BIP, anger management, and/or mental health or substance abuse treatment. The study found that those who completed anger management programs “recidivated at higher rates” than those who completed BIPs, even though those referred to BIPs had significantly more criminal history, including more past order violations, more long-standing substance abuse histories, and less education than those referred to anger management programs. As a result, one expert cautioned that probation should not recommend couples counseling or anger management programs for abusers because of the proven danger to victims.⁸³

Fundamentally, batterers believe that they are in a position of ownership of their intimate partners (and children) and are entitled to a special status that provides them with exclusive rights and privileges that do not apply to their partners, enforcing unrealistic rules, and placing their own needs first in all things. Batterers believe that their intimate partners are responsible for taking care of the batterers’ physical, emotional, and sexual needs. They expect their intimate partners to defer to their opinions and see themselves as free from accountability for their actions. Inevitably, victims of abuse break batterers’ unjust and arbitrary rules, and batterers become angry.⁸⁴ Anger management counseling focuses on moderating feelings, not on changing the underlying beliefs and values that frame batterers’ justifications for their anger.

A recent discussion on the Aquila network of batterer program facilitators produced the following comments about using individual counseling as an alternative when a client was not appropriate for a group for some reason: “Over the years I and others at my agencies have seen lots of people individually for a variety of reasons...I find that almost always working with people individually there is much less progress, insight, etc. compared to group. It has strongly and repeatedly affirmed to me the power of group over individual, even when I, an expert, am doing the individual work. So, honestly, I don’t think individual works nearly as well as group –like a birthday candle vs. a blow torch.”⁸⁵

The Task Force members strongly recommend that judicial findings on the record are necessary to explain a disposition in a case involving domestic violence that does not include a Batterer Intervention Program, and second when Anger Management is ordered in a case involving domestic violence. Furthermore, as a foundation for this recommendation, the proposed language attached in Appendix D also contains an amendment to the sentencing

⁸² Klein, Practical Implications of Current Domestic Violence Research for Probation Officers and Administrators, BWJP and Advocates for Human Potential, March 2015: 25.

⁸³ Klein, Practical Implications Probation: 25.

⁸⁴ Bancroft Why Does He Do That?: 54-59.

⁸⁵ Huffine, Psy.D. Oregon, October 26, 2015, aquila@biscmi.org.

purposes that identifies a certified Batterer Intervention Program as the appropriate effective community intervention in a domestic violence matter.

8. Oversight of BIP participants through Judicial Monitoring and community supervision with a “swift and certain” sanction for non-compliance is key to positive batterer program outcomes. Judicial Monitoring dockets should be implemented statewide, which will require additional resources for judge time and court clerks.

First, the Hornby Zeller Report concluded with a recommendation in support of continuing Judicial Monitoring “domestic violence” dockets:

[T]he lower recidivism results in new arrests and new incarcerations compared to traditional probation for domestic violence cases warrant the continuation of these dockets. Their effectiveness at the two-year mark, a year after Batterer Intervention Programs are completed, offers particular reason for encouragement.⁸⁶

Maine has seven active judicial review or monitoring court dockets, otherwise known as DV Dockets.⁸⁷ An additional four Judicial Monitoring dockets closed due to the expiration of federal funding supporting the projects in Maine in 2011. The seven active dockets are located in Portland, Lewiston, West Bath, Augusta, Waterville, Skowhegan, and Rockland. Those involved with the West Bath Court also conducted a recidivism study covering 90 participants from 2010-2013, and reported a recidivism rate of 10%, well below the average recidivism rate of approximately 24% for all offenders.⁸⁸

These Judicial Monitoring dockets, meant specifically to address domestic violence crimes, are scheduled separately from normal judicial hearings and meet monthly. A dedicated judge oversees the docket, focusing on whether the offender has complied with conditions of probation or Deferred Disposition, including participation in a Batterer Intervention Program, paying child support, and attending counseling or substance abuse treatment.⁸⁹ The judge “provides an authority figure capable of holding people accountable,” along with the team (BIP facilitators, probation officers, DA’s Office staff, advocates, Child Support Enforcement officers) “increases the level of accountability on the part of the offender even further.”⁹⁰

⁸⁶ Hornby Zeller Report: vi.

⁸⁷ Hornby Zeller Report: 1.

⁸⁸ Edmondson, Steve (DV Investigator), West Bath Judicial Monitoring Recidivism Review Report, 2014, *citing* Rubin & Dodge, Probation in Maine: Setting the Baseline, July 2009, Muskie School of Public Service recidivism review,

http://muskie.usm.maine.edu/justiceresearch/Publications/Adult/Probation_in_Maine_Setting_the_Baseline.pdf

⁸⁹ Hornby Zeller Report: 1.

⁹⁰ Hornby Zeller Report: 21.

In addition to the Hornby Zeller Report conclusion, a roundtable of National Institute of Justice experts recommended working closely with court and probation to monitor court-ordered referrals as a key element of a model BIP.⁹¹ In a 2015 Webinar sponsored by NCJFCJ, entitled “But Do They Work? Asking the Right Questions about Batterer Intervention Research,” consultant Juan Areán recommended that BIPs should be closely coordinated with the courts through a judicial review program.⁹² In his testimony this year before the New Mexico legislative committee, national expert Edward Gondolf similarly recommended “court oversight with swift and certain response” to non-compliant program participants as one way to improve batterer program outcomes.⁹³ The effectiveness of programs is “undermined by ... the large number of program no-shows and drop-outs.”⁹⁴ Judicial Monitoring works directly to address this problem. Court oversight is in fact “essential in boosting program enrollment and completion, and ultimately increasing the percentage of men who reduce their violence and abuse.”⁹⁵

Maine researcher Robert Moyer similarly concluded in his 2004 paper that Judicial Monitoring and sanctioning can improve BIP completion rates.⁹⁶ He referenced a study conducted at the Pittsburgh DV court, which found that completion rates “shot up from one-half to two-thirds soon after a policy of Judicial Monitoring coupled with swift sanctions for non-compliance was instituted.”⁹⁷ He also noted that “dropping out of a BIP is a red flag for reoffending. In fact, dropping out predicts reoffending more consistently than any other risk factor that research has yet identified.”⁹⁸ As a result, he recommended that monitoring BIP attendance will improve the risk management of DV offenders, because the only way to obtain information that an offender has dropped out of a program is to assign an offender to a BIP, and monitor attendance. Then if the offender drops out, “swift criminal justice responses such as heightened scrutiny and incarceration may prevent reoffending,” and victims can be alerted to “review their safety planning in light of the increased danger.”⁹⁹

Dr. Moyer’s research on how dropping out is a red flag for re-offending is particularly important in Maine, because with 655 men enrolled in a batterer program in 2015, only 224 are reported to have completed a program. In a research review of domestic violence research

⁹¹ Carter, Lucy S. “Batterer Intervention: Doing the Work and Measuring the Progress; A report on the December 2009 Experts Roundtable.” *Family Violence Prevention Fund/National Institute of Justice* (2010): 2-21, cited in Hornby Zeller: 16.

⁹² 2015 Webinar But Do They Work?

⁹³ Gondolf, Edward, testimony provided September 11, 2015 to the New Mexico Batterer Intervention Task Force, accessed at <http://www.biscmi.org/new-mexico-batterer-intervention-task-force/>.

⁹⁴ Gondolf, Evaluating Batterer programs: 624.

⁹⁵ Gondolf, The Future of Batterer Programs: 211.

⁹⁶ Moyer, To BIP or Not to BIP: 9.

⁹⁷ Moyer, To BIP or Not to BIP:9.

⁹⁸ Moyer, To BIP or Not to BIP: 12.

⁹⁹ Moyer, To BIP or Not to BIP: 10.

for judges, the author recommended that judges should conduct judicial review hearings to increase program participation. “Judges should take all appropriate steps to make sure that court conditions are enforced, violators are returned to court promptly, and heard expeditiously” because abusers who complete batterer programs are “less likely to re-abuse than those that fail to attend, are noncompliant, or drop out. The difference can be substantial.”¹⁰⁰ Probation officers similarly should ensure that court conditions are enforced, and violators are returned to court promptly and appropriately sanctioned. “Compliance with mandated batterer intervention programs provides probation with a dynamic risk instrument based on a defendant’s ongoing current behavior. Re-abuse can be prevented if probation responds appropriately and expeditiously to batterers who fail to attend or to comply with court-referred batterer intervention programs.”¹⁰¹ The officers should respond immediately to any failure to enroll or attend a BIP, because several studies demonstrate that batterers who do not complete BIPs are “likely to be non-compliant from the start” and non-compliance at first court monitoring predicted both program failure and recidivism. Failure to attend “constitutes a red flag and danger for the victim, not to be ignored or treated lightly.”¹⁰² Unless the BIP is closely monitored and program compliance is “rigorously enforced, the BIP may be ineffective [and] give victims false hope.”¹⁰³

Sanctions for non-compliance can range from verbal admonishment and requiring more frequent reporting to monitoring sessions, to requiring that a participant restart an assigned program, to electronic monitoring or jail.¹⁰⁴ Incentives can include a decrease in monitoring frequency, encouragement by the judge, or an increase in contact with the victim (at the victim’s request only). Care should be taken in offering incentives that could be regarded as “excessive praise for merely following court orders,” because most of the “achievements” reflect compliance with court orders, rather than indications of “going above and beyond” by offenders.¹⁰⁵

The most cost-effective mechanism for increased monitoring in the community lies in expanding capacity for Pretrial Case Managers and Probation Officers trained in domestic violence dynamics and risk management. Having a dedicated Domestic Violence Probation Officer is recognized as a best practice (Hornby Zeller 26); however, only Portland, Skowhegan and Augusta have DV Probation Officers.¹⁰⁶ A Rhode Island study found that a

¹⁰⁰ Klein Practical Implications Judges: 51.

¹⁰¹ Klein, Practical Implication Probation: 28.

¹⁰² Klein, Practical Implication Probation: 28.

¹⁰³ Klein, Practical Implication Probation: 30.

¹⁰⁴ Labriola, Melissa et al. Testing the Efficacy of Judicial Monitoring. Center for Court Innovation (Dec. 2012): 25 (table of graduated sanctions and incentives), accessed at

http://www.courtinnovation.org/sites/default/files/documents/Testing_Efficacy_Judicial_Monitoring.pdf

¹⁰⁵ Labriola, Testing the Efficacy: 26.

¹⁰⁶ Hornby Zeller: 26.

specialized probation domestic violence supervision program more effectively enforced program compliance.¹⁰⁷

Such innovative strategies as Judicial Monitoring dockets or specialized criminal justice system professionals with domestic violence training and dedicated domestic violence caseloads, however, are not available in much of rural Maine. Distribution of resources tends to be driven by population, not always balanced with the challenges endemic to rural Maine, such as the distribution of population over many square miles through which there are roads of varying quality. The time and hazards of travel (including mega fauna in the roadway) consume a disproportionate amount of time relative to the number of people served; yet these specialized responses to domestic violence offenders are as vital to rural Maine as its more densely populated regions.

The bottom line is that Judicial Monitoring of Batterer Intervention Program attendance, with swift and certain sanctions for non-compliance, coupled with community monitoring by probation and pretrial officers, can increase program completion, reduce re-assault and enhance victim safety. “Courts that prioritize deterrence and that both prioritize and implement specific policies to sanction offender noncompliance, while also addressing the needs of victims, are most effective in reducing recidivism.”¹⁰⁸

9. High-risk batterers require ongoing risk management and supervision. Referral agencies should provide risk assessment information to BIPs.

The research outlined in Section IV (4) above identifies a sub-group of high-risk batterers that require more intensive management. The NIJ Roundtable experts recommended using risk assessment and risk management to “provide more effective interventions” as a core element of a model BIP.¹⁰⁹ The Hornby Zeller Report also recommended sharing of risk assessment information and use of risk management.¹¹⁰ Risk management is essential for the sub-group of high risk batterers, who are responsible for lethality and repeated, severe injuries of domestic violence victims. While more research is needed to determine how to identify those more complex, dangerous, and chronic batterers, and the appropriate response, at a minimum, sharing information about these men and on-going risk management are

¹⁰⁷ Klein, Andrew et al., An Evaluation of Rhode Island’s Specialized Supervision of Domestic Violence Probationers. Waltham, MA: BOTEC Analysis Corp. & American Probation and Parole Association. Final Report on grant 2002-WE-BX-0011 (2005).

¹⁰⁸ Hornby Zeller: 11, *citing* Cissner, Amanda et al. Testing the Effects of New York’s Domestic Violence Courts, Center for Court Innovation (2013).

http://www.courtinnovation.org/sites/default/files/documents/statewide_evaluation_dv_courts.pdf.

¹⁰⁹ NIJ Roundtable Report: 7.

¹¹⁰ Hornby Zeller Report: 43.

critical.¹¹¹ The referral agencies in Maine should be providing the ODARA¹¹² and other risk assessment information to the BIP facilitators.

This process of risk assessment and management of this sub-group of batterers requires an effective Coordinated Community Response (CCR) in order to collect the risk information, identify the high-risk “repeaters”, and determine what containment measures or community support is appropriate.¹¹³ At least one national expert has described these men as having a lower stake in conformity (psycho-socially marginalized), as opposed to those with a stake in conformity (married, children, education, employed, no substance abuse, admit violence, perceive program as important).¹¹⁴ Engaging them in programs can decrease the odds of re-offense; the longer they are in programs, the more victim safety is enhanced.

At a minimum, additional measures to protect their victims are needed. “Batterer programs, in and of themselves, are not likely to protect the most vulnerable victims from further harm from higher risk abusers [and] should be supplemented by other measures to assure victim safety from these abusers.”¹¹⁵ With respect to this sub-group, at least one expert testifying in the New Mexico hearings concluded, “I am not convinced that we have anything that works with this kind of person.”¹¹⁶ On the other hand, Gondolf observed, “the more far-reaching evolution of batterer programs is toward risk management of the problematic and unresponsive batterers. The program approach that best supports and complements this sort of effort may be the most effective in the long run.”¹¹⁷ In his research, he found that no one psychological profile stood out, but recommended that increasing efforts to “identify and contain these men through risk assessment is one major way to improve batterer program

¹¹¹ Gondolf, *The Future of Batterer Programs*: 191-193, 237-238.

¹¹² ODARA is the Ontario Domestic Assault Risk Assessment tool recommended by the Maine Commission on Domestic and Sexual Abuse and approved by the Maine Department of Public Safety for use in assessing the likelihood of recidivism by offenders who have committed a domestic assault. Legislation was passed in 2012 and implemented in 2015, requiring law enforcement to conduct the ODARA in all eligible domestic violence cases and provide the results to bail commissioners and prosecutors. *See* PL 2012, c. 680, LD 1711.

¹¹³ Gondolf, *The Future of Batterer Programs*: 194-197.

¹¹⁴ Aldarondo Discussion Paper: 10.

¹¹⁵ Klein Practical Implications Probation: 24.

¹¹⁶ Larry Bennett, Ph.D., Indiana University, “Partner Abuse Intervention Programs and Partner Abuse Intervention Systems,” Testimony provided September 11, 2015 to the New Mexico Batterer Intervention Task Force, <http://www.biscmi.org/new-mexico-batterer-intervention-task-force>.

. *See also* Dr. Lynn Stewart ,C. Psychology (Canada), *Applying the Effective Corrections Approach to Domestic Violence Programs*, New Mexico testimony (provide programming only those with high risk scores, high risk units and intensive case management may be needed for high risk cases); Radatz (BIPs should use DV risk assessment tools that predict recidivism, and “focus their resources on high-risk offenders, as [correctional-risk/needs/ responsivity] research has shown they will benefit most from the intensive treatment. BIPs should treat low and medium offenders separately from high-risk offenders because administering high-intensity treatment to these lower risk offenders can have negative effects, such as increased re-offending.”)

¹¹⁷ Gondolf, *Future of Batterer Programs*: 125-6.

outcomes, as well as criminal justice interventions in general.”¹¹⁸ More extensive case management and “systematic victim contact” might help to disclose re-assaults, and “decisive intervention for an initial re-assault ... would likely reduce repeated assaults.”¹¹⁹

Finally, the Hornby Zeller Report on the Domestic Violence Dockets recommended that these Judicial Monitoring programs should use risk assessments “to ensure that appropriate offenders are part of the Docket. Everyone involved in a domestic violence docket project should be aware of the high risk of re-abuse and lethality associated with domestic violence cases. Risk assessment and risk management can help increase safety for adult victims and their children, and allow Batterer Intervention Programs to tailor interventions to the specific perpetrator.”¹²⁰

10. Engage diverse community members in a way that is culturally competent and safe for the participants. Diverse populations must be integrated through training and preparation of BIP facilitators to create an inclusive environment reflecting the populations local to the programs.

“Diversity” covers a wide spectrum of community members. This section will address cultural diversity, tribal programs, the deaf/hard of hearing, and LGBTQ communities. The debate in the literature is whether standalone groups led by facilitators from the same culture for all diverse individuals are more effective, as opposed to “culture blind” groups, or whether diverse individuals can effectively be integrated into a mainstream BIP. The limited research on cultural approaches to BIPs is mixed in terms of outcome.¹²¹ One clinical trial of a “culturally focused” program designed for black male abusers had no better outcomes than a mixed abusers group.¹²² But a culturally focused group for African American men, for example, “may prove to be more effective especially within community-based organizations tied to local services and supports.”¹²³

Engaging the group participants with sensitivity to their specific circumstances and the issues facing them in their communities may also improve the effectiveness of the group, especially if engaging the participants using language and examples from their culture means they complete the program and do not drop out. “The challenge here is to link the experiences of low-income and racially or ethnically diverse men in BIPs and the cultural competence of service providers with increased program completion rates and reduced IPV recidivism. This

¹¹⁸ Gondolf, Weak Evidence for Batterer Program Alternatives: 351.

¹¹⁹ Gondolf, Evaluating Batterer programs: 620.

¹²⁰ Hornby Zeller Report: 43.

¹²¹ Hornby Zeller Report: 160.

¹²² Klein Practical Implications Probation: 24.

¹²³ Klein Practical Implications Probation: 24.

is particularly important given that experts in the field agree that the majority of existing programs are not culturally competent.”¹²⁴ Proponents for these programs that are more accessible and relevant to various underserved populations note that the original batterer intervention programs were “developed primarily for Caucasian men and that the resulting models do not reflect the perspective of men from other cultural traditions,” especially those that are less trusting of programs mandated by the court.¹²⁵

With respect to those participants whose English is limited, some BIP state standards include provisions encouraging programs to have facilitators who speak languages other than English or to make reasonable accommodations for disabled offenders.¹²⁶ Others such as Massachusetts actually require programs to provide staff that are ethnically and linguistically reflective of the communities they serve.¹²⁷ Such culturally focused homogeneous groups, however, do require additional resources to recruit and train staff, and maintain specialized groups in addition to the conventional groups.

LGBTQ couples experience the same rate of violence in their relationships as heterosexual couples. There is often a reluctance to report the violence to police, and these cases often don’t process through the criminal justice system. When they do, options for sending a same sex batterer to a traditional program are limited. Courts are often faced with a decision of placing a same sex batterer in programs where they may not be safe or with curriculum primarily focused on male-female relationships. The alternatives for same sex batterers are individual counseling or anger management. Nationally, batterers intervention programs for same sex batterers tend to be located in major cities where the populations can support such groups. Maine currently would not be able to sustain specific groups for this population.

Based on the research on cultural competency, and recognizing that in practical terms, most programs are unable to provide specific programs for specific groups, the Task Force recommends the following:

- a) Train BIP facilitators on cultural competency/sensitivity and to understand their own biases. Partner with local culturally specific advocacy agencies for training.
- b) Safety is key: ensure that the facilitator can keep the participant from a diverse community safe and engaged in the class.

¹²⁴ Aldarondo Discussion Paper 13-14.

¹²⁵ Adams, David. (Dec. 2009). Certified Batterer Intervention Programs: History, Philosophies, Techniques, Collaborations, Innovations and Challenges, Adapted and updated from article that first appeared in *Clinics in Family Practice*, Vol. 5(1), 2003: 14, accessed at https://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Certified%20Batterer%20Intervention%20Programs.pdf

¹²⁶ Virginia Standards for BIPs (August 2010), www.vabipboard.org/assets/bipstandards.pdf

¹²⁷ MA Guidelines and Standards for the Certification of BIPs (1995), www.mass.gov/eohhs/docs/dph/comm-health/violence/bi-guidelines.pdf.

- c) Access is also key: provide BIP programs with a list of resources for addressing and mitigating participant barriers due to disability, including print-based or auditory processing-based barriers not covered by the Americans with Disabilities Act.
- d) Consider using innovative techniques such as language buddies and trained cultural brokers as co-teachers.
- e) Recommend programs research the demographics of their catchment area to determine if they are reflecting the local population and whether certain groups are being excluded or are disproportionately represented in the program referrals.¹²⁸
- f) Collect feedback from BIP service providers on challenges in serving diverse populations.
- g) Include those with Limited English Proficiency (LEP) and different cultures in the larger class, but ensure cultural differences do not isolate the individual, and that he/she is supported and safe. There is value to having diverse individuals in the same room, and learning from the other participants. Train facilitators to better engage diverse populations in ways that make classes relevant: make simple changes to materials or referral systems in order to reflect local populations better and be more accessible.¹²⁹

This approach to working cross-culturally with a range of people from diverse ethnic communities, requires an “awareness of specific practical needs such as language and immigration barriers combined with understanding of how culture is many layered and includes cultures of masculinity, highly relevant for work with men using domestic violence.”¹³⁰

Another component of working with diverse communities is the requirement for training for BIP teachers about their own biases. BIPs encounter a small percentage of individuals who are not part of dominant communities. While Maine is a racially homogenous state, there are some areas in Maine with high numbers of Native Americans, immigrants and racial minorities that remain underserved and mis-served. In addition to racial minorities, teachers will also likely encounter people dealing with poverty, those with disabilities, people from LGBTQ communities, those with mental health concerns and/or cognitive differences, people from diverse faith communities, and people with substance dependency issues.

BIP teachers address and confront many different forms of oppression, bigotry and violent behaviors during the class. In the work of social justice, the importance of teachers

¹²⁸ Debbonaire, Thangam. “Responding to diverse ethnic communities in domestic violence perpetrator programmes.” Expert Essay (2015): 7 (hereinafter “Debbonaire diverse ethnic communities”), accessed at http://www.work-with-perpetrators.eu/fileadmin/WWP_Network/redakteure/Expert%20Essays/WWP-EN%20Expert%20Essay%20-%20Diversity.pdf

¹²⁹ Debbonaire diverse ethnic communities: 7.

¹³⁰ Debbonaire diverse ethnic communities: 1.

identifying their own biases is fundamental to assist others effectively to face theirs.¹³¹ The promotion and development of empathy is a consistent and essential theme of BIP work. Often missed in BIP teacher training is the critical parallel process of educating about social justice issues (oppression, violence, privilege). The parallel process involves teachers gaining insight about themselves and then learning how this information can improve or detract from their ability to teach offenders and ultimately affect the safety of victims.

BIP teachers should be trained to identify their own biases that may be subconscious.¹³² In the Atlanta based batterer program, Men Stopping Violence, the focus of their training is to bring participants' biases to the surface and to address them in a compassionate yet confrontational environment in an ongoing process. It remains important to consistently explore and identify the BIP teachers' biases and beliefs about others through training and supervision to better engage students and increase victim safety.

11. Continue BIP standards accommodation of programming specific for women, acknowledging differences between men and women's use of violence.

One of the challenges in addressing domestic violence is keeping in mind that not all violence is battering. Battering is a pattern of coercive, controlling tactics, used over the course of time that keep perpetrators in a position of power over their victims. Batterers use their power to control their victims' lives in profound ways. Victims of battering learn through the daily experience of life with the person battering them that resistance to the batterers' control results in further harm to their physical, sexual, psychological, financial, and/or social well being. Batterers impact their children both directly and indirectly, coercing compliance out of their victims by threatened or actual harm to the children. Batterer Intervention Programs are uniquely designed to address this patterned behavior by addressing the underlying beliefs and attitudes that support batterers' sense of privilege to treat their intimate partners and families in this way, and the vast majority of batterers are men.

“Women who engage in violence or use force against their intimate partners are in most aspects very similar to women who are victims of IPV.” Overlap exists between the two groups: 64% to more than 90%. “Studies of women who use force against male partners reveal different motivations than those of men who perpetrate IPV against female partners.” Self-defense, fear, and retaliation are the most cited motivations for women assailants. Context of the use of force indicated women were the “primary victims.”¹³³

¹³¹ Scott, Sam, “A Hard Look at How We See Race,” Utne Reader (Winter 2015), accessed at <https://www.macfound.org/fellows/913/>

¹³² See Dr. Jennifer Eberhardt's study of racial bias, <https://edpolicy.stanford.edu/node/73>.

¹³³ Klein Practical Implications Probation: 4.

In designing programs for women who have committed domestic violence crimes, Maine's providers looked to the national experts at the Domestic Abuse Intervention Programs (DAIP). DAIP offers this distinction:

When women use violence in an intimate relationship, the circumstances of that violence tend to differ from when men use violence. Men's use of violence against women is learned and reinforced through many social, cultural and institutional experiences. Women's use of violence does not have the same kind of societal support. Many women who do use violence against their male partners are being battered. Their violence is used primarily to respond to and resist the violence used against them.¹³⁴

While women's use of violence may most often be resistive, it is also illegal, unless it was used in the context of self-defense. Therefore, Maine's BIPs for women use models that take into account whether there was a context of battering in which female offenders used criminal violence to resist rather than impose power and control. These programs provide the court with an appropriate avenue for female offenders who are also victims of contemporaneous battering to participate in gender specific programs that both address their use of criminal violence and their need for protection from batterers and long term support to establish lives free from abuse and violence.

“[R]esearch suggests the use of advocacy services and community resources by women who use violence against intimate partner reduces the likelihood of them continuing violence against their male partners.”¹³⁵ Maine's certified BIPs for women are all provided by or in collaboration with one of Maine's domestic violence resource centers, facilitating direct access by female offenders to any victim services they may need.

12. Implement a process to ensure that prosecutors submit the required annual domestic violence report to allow meaningful review by the legislative joint standing committees specified in existing law. In addition, prosecutors should include the use of certified Batterer Intervention Programs in their written policies¹³⁶ for handling domestic violence matters.

One of the challenges in preparing this report was the lack of data about how domestic violence cases are handled in the criminal justice system from start to finish. The Department of Corrections has data about how often BIP is ordered as a condition of probation, and some

¹³⁴ www.theduluthmodel.org, FAQ “Do Women use violence as often as men in intimate relationships?”

¹³⁵ Klein Practical Implications Probation: 5.

¹³⁶ 19-A M.R.S. §4012 (8) requires that each prosecutorial office have a written policy regarding prosecution of domestic violence cases.

information about when BIP is ordered as a condition of Deferred Disposition that comes directly from the BIP directors. But the data is fragmented and incomplete, inhibiting efforts to develop a comprehensive picture of Maine’s criminal justice system response to domestic violence.

A law already exists that requires the Attorney General, working with the District Attorneys, to submit an annual report “that compiles data from domestic violence prosecutors statewide to the joint standing committees of the legislature with jurisdiction over criminal justice, the judiciary and appropriations.”¹³⁷ Since that data has not been compiled and submitted for several years, a process should be implemented to ensure that the report is created and submitted for meaningful review to the joint standing committees with jurisdiction over criminal justice, judiciary and appropriations as required in the existing statute.

Finally, since conditions of probation originate in the sentencing recommendations of prosecutors, often in conjunction with plea agreements, each District Attorney’s Office should have in their written domestic violence policy a section addressing the use of Batterer Intervention Programs in domestic violence cases.

Conclusion

The Task Force members recognize that future research should be undertaken to evaluate the effectiveness of various components of the criminal justice system and community response to domestic violence. Batterer Intervention Programs are only one component of that response. The Commission should examine the results of the Colby College/MABIP study when completed in 2017 with a goal to recommending practices determined to more effectively engage participants in the batterer programs. The Commission should also continue to monitor new research on the management of high risk offenders, along with the statewide focus on risk assessment and High Risk Response Teams.

Part of our statewide response to domestic violence will require that we fill important data gaps, especially the lack of information about how cases are handled in the criminal justice system from arrest to final disposition and the growing use of Deferred Dispositions in domestic violence cases.

Any recidivism studies should be expanded to incorporate the Mirabal study model that measures improvement in the quality of victims’ lives. But we agree with the Mirabal team that while there is more work to be done, improvements to be made to Batterer Intervention

¹³⁷ 5 M.R.S. §204-A. *See also* 19-A M.R.S. 4001 (5) (provide for the collection of data concerning domestic abuse in an effort to develop a comprehensive analysis of the incidence and causes of that abuse).

Programs, support for victims and their children, and strengthening our coordinated response to domestic violence, “we are optimistic about [Batterer Intervention Programs’] ability to play an important part in the quest to end domestic violence.”¹³⁸

Finally, we echo the NIJ Roundtable experts by concluding that “BIPs continue to have a significant role to play in ending violence against women. With additional opportunities for sharing and testing new research and practice ideas, BIPs and partner organizations can turn the current challenges to the field into opportunities to improve.”¹³⁹

¹³⁸ Mirabal Report: 46.

¹³⁹ Carter NIJ Report: 3.

Appendix A: Acknowledgements

The Maine Commission on Domestic and Sexual Abuse would like to thank the following individuals for their dedication, expertise, and contributions to the L.D. 150 Task Force Report.

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Appendix B: Legislative Resolve

LAW WITHOUT
GOVERNOR'S
SIGNATURE

MAY 26, 2015

CHAPTER

15

RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

H.P. 108 - L.D. 150

Resolve, Requiring a Review of and a Report on Pretrial and Post-conviction Use of Batterers' Intervention Programs

Sec. 1. Review of pretrial and post-conviction use of batterers' intervention programs. Resolved: That the Maine Commission on Domestic and Sexual Abuse, as established in the Maine Revised Statutes, Title 5, section 12004-I, subsection 74-C, shall review pretrial and post-conviction use of batterers' intervention programs. The review must include best practices for batterers' intervention programs, including the length of successful programs and sanctions and incentives to encourage full participation. The review must consider the potential for use of batterers' intervention programs before trial, during a period of deferred disposition and after conviction; and be it further

Sec. 2. Report on pretrial and post-conviction use of batterers' intervention programs. Resolved: That, after completing the review required under section 1, the Maine Commission on Domestic and Sexual Abuse shall report to the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2016 on the results of the review. The report may include recommendations and suggested legislation. Following receipt of the report the Joint Standing Committee on Criminal Justice and Public Safety may submit a bill on pretrial and post-conviction use of batterers' intervention programs to the Second Regular Session of the 127th Legislature.

**APPENDIX C: WHAT’S THE DIFFERENCE BETWEEN ANGER
MANAGEMENT AND A STATE CERTIFIED BATTERER INTERVENTION
PROGRAM?**

	ANGER MANAGEMENT PROGRAMS	STATE CERTIFIED BATTERERS INTERVENTION PROGRAM
ARE PROGRAMS STATE CERTIFIED?	No	Yes. Certification is administered by Maine Department of Corrections.
WHO IS SERVED BY THE PROGRAMS?	Perpetrators of stranger or non-intimate violence.	Specifically designed to work with domestic violence offenders.
HOW LONG ARE THE PROGRAMS?	Usually 8-15 weekly sessions.	48 weeks.
ARE PROGRAMS MONITORED BY A STATE AGENCY?	No	Yes. Each program must have a working relationship with the local domestic violence project, probation and the courts.
DO PROGRAMS CONTACT VICTIMS?	No	Yes. Programs are required to contact victims in writing. They are made aware of enrollment of perpetrators and how to access services through the local DV projects.
ARE PROGRAMS LINKED WITH LOCAL DOMESTIC VIOLENCE PROJECTS?	No	Yes. Each program must attend regular supervision provided by the local DV project to discuss class content.
WHAT IS THE EMPHASIS OF THE INTERVENTION?	Violence is seen as a momentary outburst of anger. Perpetrators are taught techniques like “time outs”, relaxation methods, and coping skills.	Physical violence is seen as one of many forms of abusive behaviors chosen by batterers to control their partners, including physical, sexual, verbal, emotional, and economic abuse. Men are taught that stress, a life crisis, and chemical dependency are not causes of DV, and that abuse is a choice a batterer makes to gain and maintain an imbalance of power and control within the relationship.
ARE GROUP FACILITATORS TRAINED ABOUT DOMESTIC VIOLENCE?	Subject to agency discretion.	State standards require that all facilitators receive training in at least 1 of 3 nationally recognized models.

Adapted by the Violence Intervention Partnership of Cumberland County from the Massachusetts Department of Public Health.

Appendix D: Draft legislation

An Act to Amend the Laws on Probation Conditions in Domestic Violence Cases

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §1204, sub §2-A, ¶ D, as amended by PL 1995, c. 694 Pt. D §26, and affected by PL 1995, c. 694, Pt. E, §2, is further amended to read:

D. To undergo, as an out-patient, available medical or psychiatric treatment, or to enter and remain, as a voluntary patient, in a specified institution when required for that purpose. Failure to comply with this condition is considered only as a violation of probation and may not, in itself, authorize involuntary treatment or hospitalization. The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under Title 19-A, section 4014.

(1). Whenever a person is convicted of a crime which the state pleads and proves was a committed against a current or former spouse, domestic or sexual partner, individuals presently or formerly living together as spouses, or a dating partner, under chapter 9 or 13 or section 758, and the court requires as a condition of probation that the person either attend anger management counseling, or does not order a batterers' intervention program certified under 19-A, section 4014, then the court shall make findings on the record to justify the choice to order anger management counseling, or explain the choice not to order a batterers' intervention program. As used in this subparagraph, "dating partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A.

Sec. 2. 17-A MRSA §1151, P.L. 1975, c. 499, §1, is amended to read:

The general purposes of the provisions of this part are:

1. To prevent crime through the deterrent effect of sentences, the rehabilitation of convicted persons, and the restraint of convicted persons when required in the interest of public safety;
- 1-A. To recognize domestic abuse as a serious crime against the individual and society, and to recognize a certified batterer intervention program as the appropriate effective community intervention in cases involving domestic abuse.

SUMMARY

This bill amends the laws governing probation conditions to require that the court make findings on the record when a person convicted of a domestic violence crime against an intimate or dating partner is not required as a condition of probation to attend a batterer intervention program, or is required to attend anger management counseling.

Second, the bill amends the purposes section of the Maine Criminal Code general sentencing provisions to acknowledge domestic abuse as a serious crime against the individual and society, and recognize a certified batterer intervention program as the appropriate effective community intervention in such cases.

Appendix E: Maine Certified Batterer Intervention Programs

Androscoggin, Franklin and Oxford Counties

Alternatives to Abuse (male program)

Alternatives to Abuse (female program)

Aroostook County

Northern New England Community Resource Center (male program)

Choices (Female Program)

Cumberland County

A Different Choice (male program)

Opportunity for Change (male program)

Cumberland and Sagadahoc Counties

Choices: The Men's Group (male program)

Hancock County

Choice V (male program)

Turning Points (female program)

Kennebec and Somerset County

Menswork (male program)

Respect Me (female program)

Knox Lincoln and Waldo Counties

Time for Change (male program)

Time for Change (male program)

Penobscot

Batterers' Intervention Program (male program)

Piscataquis

DV Classes for Men (male program)

York County

Violence No More (male program)

Caring Unlimited (female program)

Source: <http://www.maine.gov/corrections/VictimServices/BatIntervent.htm>