

6-2007

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Gover, Angela R.; Brank, Eve M.; and MacDonald, John M., "A Specialized Domestic Violence Court in South Carolina: An Example of Procedural Justice for Victims and Defendants" (2007). *Faculty Publications, Department of Psychology*. 394.
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A Specialized Domestic Violence Court in South Carolina: An Example of Procedural Justice for Victims and Defendants

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The current research details interviews with 50 victims and 50 defendants who participated in a specialized criminal domestic violence court in Lexington County, South Carolina. These victims and defendants indicated satisfaction with their court experiences, thought the process allowed them to voice their views, felt they were treated with respect, and were generally satisfied with the outcome of their cases. Court observations and interviews with court personnel confirmed that this court has successfully incorporated victims and defendants into the decision-making process while also providing a fair system to address the issue of violence against women.

Keywords: intimate partner violence; procedural justice; specialized domestic violence courts

Authors' Note: This investigation was supported by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, to the University of South Carolina (Project No. 2000-WT-VX0015).

Points of view in this document are those of the authors and do not necessarily represent the official position of the Department of Justice.

The results from an outcome evaluation of a specialized court in South Carolina indicated that systematic localized court interventions aimed at domestic violence defendants were effective at enhancing enforcement and improving victim safety. Specifically, the results indicated there were significant reductions in rearrests for domestic violence for defendants processed in this court compared to a historical sample of defendants processed in traditional criminal court settings (Gover, MacDonald, & Alpert, 2003).¹ Although the significant reduction in reoffending among domestic violence offenders suggests positive results for the domestic violence court, it is unclear why the court was effective. One possible explanation for the reduction in recidivism was the court's emphasis on procedural justice principles. The current arti-

cle moves beyond the findings from the outcome evaluation of the court and explores the court's procedures as described in qualitative interviews with victims and defendants and complemented by courtroom observations and interviews with court personnel. The goal of this study is to examine how procedural justice principles fit within the context of a specialized domestic violence court.

Scope of the Problem

During the past decade, empirical data on domestic violence have led to a growing recognition that domestic violence is a serious social problem. The data indicate that domestic violence is highly prevalent in the United States. According to the FBI's supplemental homicide reports, domestic violence claimed the lives of roughly 1,800 victims in 1997; nearly 3 out of 4 of the victims were female (U.S. Department of Justice, Bureau of Justice Statistics, 1998). In 2001, the homicide rate among female victims murdered by males (their husbands, common-law husbands, ex-husbands, or boyfriends) in the United States was 1.35 per 100,000 (Violence Policy Center, 2003). For that same year, South Carolina ranked first as the state with the highest intimate partner homicide rate among female victims by male offenders in single victim-single offender incidents. In fact, the state's rate of 3.15 per 100,000 was more than twice the national average (Violence Policy Center, 2003).

Estimates suggest that only one half of domestic violence incidents are reported to law enforcement, which means that official statistics grossly underestimate the prevalence of domestic violence (U.S. Department of Justice, Bureau of Justice Statistics, 1998). As a result, more recent efforts to estimate the prevalence of domestic violence have focused on self-reported data. A survey funded by the National Institute of Justice and the Centers for Disease Control and Prevention, for example, found that approximately 1.5 million women and 834,700 men are raped and/or physically assaulted by their partners annually (Tjaden & Thoennes, 1998). Other estimates suggest that more than 2 million women are severely assaulted annually by their male partners (American Medical Association Council on Scientific Affairs, 1992).

Regardless of the data source, it is clear that domestic violence is a serious social problem. In addition to the increased awareness of domestic violence, and perhaps as a consequence, during the past decade there have been significant changes in the justice system's response to domestic violence (Clark, Burt, Schulte, & Maguire, 1996). Although most attention has been placed on law enforcement responses to domestic violence (Sherman, 1992), criminal courts have experienced an increase in domestic violence cases during the past decade. The majority of the increase in domestic violence cases in court systems can be attributed to the implementation of mandatory arrest policies in law enforcement agencies. Between 1984 and 1997, for example, domestic relations cases in the United States grew by 177% (Ostrom & Kauder, 1997).

Today, domestic violence cases represent a large proportion of all cases that are processed within the criminal justice system.

One innovative judiciary response to the increase in domestic violence cases has been the development of specialized domestic violence courts. According to the National Center for State Courts (Keilitz, 2000), there are more than 300 courts nationwide that devote specialized prosecution practices to domestic violence. Conceptually similar to drug courts (Rottmann, 2000), domestic violence courts represent a collaborative and multidisciplinary approach to case processing (Tsai, 2000). The consolidation of all domestic violence cases into one court conserves resources and theoretically enables the members of the court to better understand and address the underlying issues in domestic violence cases. Specialized courts acknowledge that violence between intimates involves unique dynamics that are not common in stranger violence cases (Mazur & Aldrich, 2003).²

In essence, domestic violence courts attempt to improve the judiciary's response to this issue by increasing collaborative efforts between criminal justice and social service agencies. In addition, a common goal of these courts is to hold defendants accountable while also properly addressing the needs of victims and the therapeutic needs of defendants.³ Given these goals, an emphasis is placed on the experiences that victims and defendants have with the court while their cases are being processed. Research suggests that the treatment victims and defendants receive from representatives of the criminal justice system influences their perceptions of the system and perhaps their future behavior (Tyler, 1990). Therefore, the emphasis that domestic violence courts place on victims' and defendants' experiences during the court process makes this specialized court model an ideal setting for a procedural justice inquiry.

An Overview of Procedural Justice

Introduced by Thibault and Walker (1975) in their comparison of the adversarial and inquisitorial systems, procedural justice is defined as examining the processes employed rather than just the outcomes from a dispute. Researchers have consistently found that the manner in which legal decisions are imposed, rather than the outcome of the legal process alone, has a powerful and independent effect on why people obey the law (Tyler, 1988, 1990). In addition, procedural justice research suggests that legal authorities will be viewed as more legitimate and respected by those under their authority if fair procedures are employed (Tyler & Lind, 2001). Proponents of procedural justice support the notion that actors within the legal system can resolve conflicts amicably while also instilling greater faith in the system.

In operationalizing procedural justice, Leventhal (1980) expanded Thibault and Walker's (1975) work by focusing more broadly on the various components of procedural justice. In doing this, he outlined several factors that con-

tribute to one's notions of fairness, such as the opportunity to provide input during the process and being treated with respect. The opportunity to provide input during the process itself has proved to be a well-replicated finding (Fondacaro, Jackson, & Luescher, 2002). This "voice" effect, as it is often referred, is likely to be the most widely supported concept of procedural justice (Lind & Tyler, 1988).

Procedural justice judgments have been examined in a variety of formal and informal settings. For example, procedural justice factors have been examined among citizen experiences with the police and courts (Tyler, 1984, 1988; Tyler & Folger, 1980), employment decisions (Folger & Konovsky, 1989), employee attitudes toward drug testing (Konovsky & Cropanzano, 1991), and organizational change (Korsgaard, Sapienza, & Schweiger, 2002). These inquiries have consistently demonstrated the importance of procedural justice factors. For instance, Tyler and Folger (1980) found that citizens' appraisals of police contact were influenced by the way the police treated them independent of the actual outcome of the case. No matter the outcome, citizens who felt they had been treated fairly by the police were more likely to provide favorable evaluations of the police they encountered and of police in general compared to those who felt they had not been treated fairly. In the business world, Folger and Konovsky (1989) found that although distributive justice factors (e.g., "To what extent did your raise give you the full amount you deserved?") had the most influence on satisfaction with pay raise decisions, procedural justice factors contributed to the level of organizational commitment and trust ratings of supervisors. Similarly, procedural justice principles were predictive of employee job satisfaction, management trust, commitment, turnover intentions, and performance, whereas outcome fairness was not predictive of any of these factors (Konovsky & Cropanzano, 1991). Additionally, in the nonlegal and less formal area of family disputes, Fondacaro *et al.* (2002) demonstrated that the presence of procedural justice factors, such as personal respect, status recognition, correction (*i.e.*, having an opportunity to have the decision reconsidered), and trust were significantly related in the expected directions to family cohesion and conflict.

Procedural justice practices have also been found to have an important influence on domestic violence cases. Research by Paternoster, Bachman, Brame, and Sherman (1997) suggested that the manner in which sanctions were imposed on domestic violence offenders had a stronger influence on subsequent behavior than the sanction itself. Even when case outcomes were unfavorable for defendants; for example, this study reported that the use of procedurally fair methods by law enforcement during the arrest process resulted in a reduction in subsequent violence. Specifically, domestic violence offenders who were arrested and viewed the process as fair were more likely to comply with sanctions, even after controlling for a number of important predictor variables (Paternoster *et al.*, 1997). Procedural justice attitudes also have been found to be significantly related to perceptions of the court's effectiveness (Richman, 2002). Collectively, the procedural justice literature confirms the need to focus

not only on case outcomes but also on information that only those involved in the process can provide.

In addition to the influence that procedurally just processes has been found to have on offender behavior (*i.e.*, compliance), the experiences that victims have with the criminal justice system can have an impact on their future behavior. As suggested by Hickman and Simpson (2003), the criminal justice system is initially mobilized by crime victims in most cases because they are the ones who decide whether to report a crime. Therefore, the treatment that victims receive during their interaction with law enforcement can potentially affect whether they decide to report crime in the future. According to the philosophy of procedural justice, victims who have positive experiences and feel that they were treated fairly by representatives of the criminal justice system will be more inclined to make contact with the criminal justice system in the future.

Davis and Taylor's (1997) randomized experiment of a proactive family violence program in New York City also suggested that positive interactions between victims and representatives of criminal and social service agencies can influence subsequent reporting. According to interviews with victims, there were no differences in reoffending rates between offenders assigned to the treatment condition and those who were assigned to the control condition. However, victims in the treatment group reported a greater number of subsequent violent offenses to the police compared to reports made by victims in the control group. Although speculative, these researchers suggest that a joint social service and law enforcement response to family violence can positively influence victims' perceptions of law enforcement. Moreover, these positive experiences that victims in the treatment group had with the criminal justice system influenced their decision to report subsequent victimizations. Bowman (1992) notes that although it is likely that the treatment victims receive by law enforcement influences whether they decide to contact the criminal justice system in the future, it is important to also examine victim experiences during other stages in the process, such as the prosecutorial stage. The following section describes a court in South Carolina that incorporated and emphasized procedural justice practices throughout many of the stages within a specialized domestic violence court setting.

The Lexington County, South Carolina, Domestic Violence Court

The current study examines the contextual role of procedural justice practices in the Lexington County Criminal Domestic Violence Court (CDVC). The CDVC was established within South Carolina's magistrate court system in 1999 with funding from the Violence Against Women Act.⁴ According to the Census Bureau (U.S. Department of Commerce, Bureau of the Census, 2000), the population of Lexington County is approximately 220,000, and 84% of the residents are White. The majority of the county is geographically dispersed in

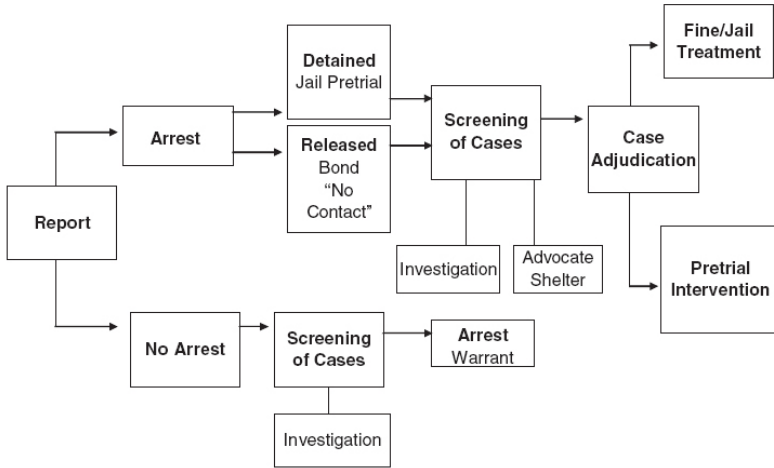
small rural communities. The county is predominately working class and the per capita income is approximately \$22,000 a year.

Since the implementation of the CDVC, all magistrate-level nonfelony cases of domestic violence that have occurred in Lexington County have been processed by the specialized court.⁵ The specialized court was designed to hold perpetrators of domestic violence more accountable by imposing fines in a majority of the cases and by increasing the amount of time offenders spent in jail pretrial.⁶ In addition, the CDVC promoted offender accountability while placing a strong emphasis on mandatory batterer treatment. Offender treatment was emphasized by the court's suspension of jail sentences in lieu of the successful completion of a 26-week group-based cognitive therapy program for domestic violence batterers. Batterers were required to pay for their treatment on a weekly basis. Progress in the treatment program was monitored on a weekly basis, and if defendants failed to comply with treatment conditions, bench warrants would be issued and suspended jail sentences imposed.

The overall goal of the CDVC was to improve the criminal justice system's response to domestic violence in Lexington County. To achieve this goal, the CDVC implemented a multiagency collaborative approach to processing domestic violence cases. For example, Lexington County appointed two full-time investigators and a full-time prosecutor to work as a team on domestic violence cases. A full-time victim advocate was hired to assist domestic violence victims, and a court administrator was hired to handle the administrative tasks involved in running a separate court docket for domestic violence cases. In addition, two magistrate-level judges were assigned to the CDVC. The Lexington County Department of Mental Health dedicated a mental health counselor to diagnose and assign proper treatment plans for offenders, and a legal advocate from a local domestic violence shelter was assigned to the court to make contact with victims and to be present in court.

The repetition of domestic violence cases resulted in the CDVC personnel developing expertise in the issues inherent in domestic violence cases. In addition to the on-the-job training and education the court staff received because of the volume of cases with which they were working, the prosecutor and investigators attended a national domestic violence conference and state-wide domestic violence trainings sponsored by the South Carolina Attorney General's Office. The prosecutor also conducted in-house domestic violence trainings for employees of the Sheriff's Department. The appointment of a designated prosecutor, investigators, and judges and the emphasis placed on specialized domestic violence training showed the court's attempt to improve the system's response to domestic violence cases. By increasing resources and encouraging collaboration among representatives of the court, the CDVC implemented a progressive new approach for the investigation and prosecution of domestic violence cases.

Figure 1
The Criminal Domestic Violence Court Intervention Strategy



Case Processing by the Lexington County Domestic Violence Court

The basic court intervention is displayed in Figure 1. In Lexington County, South Carolina, case processing for criminal domestic violence begins when Sheriff’s Department road deputies respond to a 911 call. In all domestic violence cases, responding officers are required to write a report and cases are immediately assigned to one of two criminal domestic violence (CDV) investigators.⁷ The majority of arrests are made by officers who initially respond to calls because of Lexington County’s mandatory arrest law that was implemented in 1994.

Investigators collect additional information and evidence in cases that involved an initial arrest by responding officers and follow up on further evidence collection in cases that did not result in an initial arrest. For example, investigators determine whether a history of violence exists between the individuals involved in the dispute by reviewing in-house records to see if calls were previously made by the victim. The National Crime Information Center (NCIC) rap sheets are checked to see if the offender has prior convictions or arrests. Investigators also request 911 tapes, which can be particularly useful in cases that involve an uncooperative victim.⁸ Investigators make immediate contact with the victim to obtain more details in the case. For example, if witness statements were not obtained or if pictures were not taken by responding officers, investigators attempt to obtain this additional evidence. In cases that did not result in an arrest when an officer responded to the incident, after

further evidence has been collected, investigators may obtain an arrest warrant from a magistrate judge.

After an arrest is made (either initially or later after further evidence collection), a defendant is required to appear in bond court. Judges impose a "no contact" order (NCO) on the offender's bond restriction in about 90% of the cases that are processed in the CDVC. NCO provisions prohibit the offender from making any kind of contact with the victim (*e.g.*, in person, by phone, by leaving messages) during the period between the defendant's arraignment and sentencing (O'Connor, 1999). In relationships in which the victim and offender share a residence, offenders must find alternative living arrangements. These bond restrictions remain intact until the defendant appears in the CDVC and a disposition is made in the case. Defendants appear in the CDVC approximately 30 days after their bond hearing.

During case adjudication, all representatives of the CDVC are present (the victim advocate, investigators, mental health personnel). Court participants watch a video, narrated by the judge, that explains the four options that defendants have: pretrial intervention (PTI), guilty plea, bench trial, or jury trial. After the video, each defendant receives a document that further explains the options available. Each defendant is then individually called up to the front of the courtroom by name. There, one of the aforementioned court players asks the defendant what option he or she will exercise. The defendant is required to indicate his or her choice on the document and sign and date it. After all of the defendants have been processed, the judge enters and the trials begin.

Participation in the PTI program is an option only for defendants who are not currently on probation and have not been previously convicted of a felony or criminal domestic violence. Admission to PTI is governed by South Carolina Codes of Law 17-22-50 and 17-22-60.⁹ The CDVC refers approximately 10% of cases to PTI, and approximately 50% of the cases referred are accepted and successfully complete the program. Offenders who are accepted into PTI participate in the 26-week therapy program (mentioned above) in lieu of their jail sentence. Offenders in PTI follow the same treatment program rules as non-PTI offenders participating in the treatment program. A mental health counselor pursues a strict weekly follow-up on defendants' progress in the PTI treatment program, and if a defendant fails to comply with his or her treatment conditions, a bench warrant is issued and his or her suspended jail sentence is imposed. However, if participants successfully complete PTI, their domestic violence record is expunged.

One of the unique aspects of the way criminal domestic violence cases are processed in the CDVC compared to the processing of criminal domestic violence cases in traditional courts is the involvement of the court's dedicated victim advocate. The CDVC advocate provides emergency crisis counseling to victims, informs victims about their rights and procedures to be followed through to the conclusion of the case, and assists victims in preparing to testify in court. The advocate also provides victims with general information about courtroom procedures, accompanies victims to court as requested by victims,

and assists investigators in gathering criminal intelligence information as necessary. In sum, the dedicated advocate's role in the specialized court is crucial to the court's success.

The current research takes a step away from the formally defined procedures of the court to examine the process from the perspective of those persons involved.

Procedure

Participants and Observations

During the same time frame as the outcome evaluation (Gover *et al.*, 2003) mentioned above, face-to-face interviews were conducted with a convenience sample of 50 victims and 50 defendants whose cases were processed in the CDVC. Eighty-four percent of the victims interviewed were female, and 88% of the defendants interviewed were male.¹⁰ In addition, research staff observed 30 court sessions and conducted semistructured interviews with seven members of the court staff. Interviews with victims and defendants, courtroom observations, and interviews with court personnel were completed between May 2001 and July 2002.

Instruments and Procedures

Interviews with victims and defendants were conducted in person in the lobby of the courthouse immediately after their case was heard. A convenience sample was chosen to capture victims' and defendants' perceptions immediately following their court experience and to improve the accuracy of responses. Before the interviews were conducted, the purpose of the research was explained to victims and defendants, and full informed consent was obtained. Participants were not compensated for their participation but were assured that their responses to questions would remain confidential. Only four of the 104 individuals (victims and defendants) approached to participate in the survey refused. Therefore, the overall interview response rate was approximately 96%.

Victims and defendants were asked structured questions about their experiences with the court and whether they perceived their court experience as being procedurally fair. Specifically, questions measured victims' and defendants' overall level of satisfaction with the court process, their perceptions of fairness and justice, and recommendations for improving the CDVC process. Two questions focused on general satisfaction with the court process: a) "What was your overall impression of the way that your case was handled by the Criminal Domestic Violence Court?" and b) "How would you rate the overall quality and professionalism of the court?" Response options to these questions were *excellent*, *good*, *fair*, *poor*, and *don't know*. As another indicator of victims' and defendants' perceptions of the court process, they were asked, "How was the waiting time to hear your case?" Response options to this question were *excellent*, *good*, *fair*, *poor*, and *don't know*. Two questions asked respondents

whether they were given an opportunity to provide a "voice" in their case: a) "Do you feel that the court gave you adequate time to explain your side of the story?" and b) "Do you feel that the judge was concerned with your side of the story?" Response options to these questions were *yes* and *no*. Also, respondents were asked two questions about fairness, justice, and respect: a) "Do you think that the outcome in your case was fair/just?" and b) "Do you think that you were treated with respect and dignity by the court?" Response options to these questions were *yes* and *no*. Respondents were also asked the following question to determine whether victims and defendants agreed with the court's overall response to domestic violence: "Do you think that the Domestic Violence Court's response to domestic violence cases is too easy, too harsh, or just right?" Also, to determine whether victims would recommend the court experience to other victims, they were asked the following yes-or-no question: "Based on your experience in court would you recommend that other victims seek prosecution?" Respondents were asked one final open-ended question: "What could the Lexington County Criminal Domestic Violence Court do to improve the court experience for victims or defendants?"

During the courtroom observations, trained research staff observers documented the general context in which court cases were processed in the CDVC. The qualitative data gathered through courtroom observations were meant to complement the interview data and describe the general courtroom work group. Based on the emphasis on collaboration in these nontraditional courts (Rottman & Casey, 1999), one focus of the observations was the level of cooperation among the sheriff's investigators, the domestic violence prosecutor, the judge, the mental health personnel, victim advocates, the victim, and the offender. Observations were guided by an open-ended instrument that required research staff to identify the extent to which the court process was collaborative, whether victims and defendants were given an opportunity to voice their concerns to the court, and whether victim and defendant concerns had an impact on the decision-making process.

Interviews were also conducted with the seven professionals who played a key role in the court's operation: two judges, two law enforcement investigators, the court's prosecutor, a mental health counselor, and a legal advocate from a local battered women's shelter. Interviews were conducted at the Lexington County Sheriff's Department in private conference rooms. The interviews lasted between 1 and 2 hours and were tape-recorded with each participant's consent. The interview format consisted of semistructured questions that were followed by probes to pursue topical leads provided by the subjects. This method allowed the participants to elaborate on important aspects of the court development and operation that they perceived to be most critical instead of only responding to structured interview questions. The primary purpose of these interviews was to obtain data on perceptions of how the Lexington County Sheriff's Department's response to domestic violence had changed since the court's inception and how its role as a representative of the court affected the court's operation. To search for general relationships among

question responses, the tapes were transcribed for qualitative data analysis. In the next section, information from victim and defendant interviews, courtroom observations, and interviews with court personnel describe the incorporation of procedural justice components within the CDVC process in terms of victim and defendant impressions of the court process, victim and defendant "voice" in the process, and perceptions of fairness, justice, and respect.

Results

General Impressions of the Court Process

Research staff classified 26 of the 30 courtroom observations as collaborative in some way. Although few cases had the involvement of every court player, most of the CDVC personnel were involved in some aspect of case processing. A large majority of these cases did not involve defense counsel because magistrate courts do not require defendants to retain counsel. The most common collaboration occurred before court even began. In nearly every court observation, many of the court players, including the sheriff's investigators, the mental health counselor, the court administrator and staff, and the prosecutor, worked together to process each defendant's case.

Collaboration was further documented by the communication among the court players during case processing. Communication between the judge and the prosecutor was common, with the prosecutor making sentencing recommendations to the judge regarding fines, jail time, and counseling. In one case observed, the prosecutor recommended a reduced sentence for the defendant because he was providing financial support to the victim and their children. In another case, the prosecutor recommended that the judge sentence the defendant to 30 days in jail, suspended, and 26 weeks of counseling and to remove the fine as an incentive to attend counseling. The judge followed the recommendations of the prosecutor in both of these cases.

In general, if cases had lethality indicators, the prosecutor recommended that defendants receive counseling or jail, without the option for a fine. The court offered a scheduled payment plan to defendants who could not pay an ordered fine in full, and the prosecutor viewed this as a way for offenders to pay their way out of a crime. In addition, the prosecutor did not view fines as an adequate deterrent and saw many instances when they further harmed victims and children by creating more financial stress or, if the couple separated, interfered with the payment of child support.

Overall, the judge and prosecutor communicated effectively, and it was rare that the judge did not follow sentence recommendations made by the prosecutor. This was not a unique aspect of the CDVC because most summary and circuit court judges follow prosecutor recommendations. The most common recommendation that was not always followed by a judge was when the prosecutor wanted jail time to be the only option if the defendant failed counseling. Sometimes, despite the prosecutor's recommendation, the judges would offer the fine as an alternative. According to one courtroom observer,

It was apparent that everyone (prosecutor, judge, mental health counselor, sheriff's deputies) there had a specific role to play (*i.e.*, questioning defendants and victims, sentencing, reading incident reports, discussing the treatment program with defendants). There was teamwork that was evident on the prosecutor's behalf: She addressed a victim's concern and a defendant's wife's concerns while the judge was listening to the defendant tell what happened on the night of the incident. There was teamwork by the officers—they had a role to play to give evidence against the defendant, and they carried out their role successfully. The mental health counselor did not come into play until the end of court, when she was instructing all of the PII defendants about coming to her office.

Another observer noted that the mental health counselor and the legal advocate from the shelter were valuable key players in the courtroom and made substantial contributions to the processing of cases:

The mental health counselor was present to enroll offenders in treatment programs required as a condition of sentencing. She met with all of the offenders after court let out and explained to them their obligations and consequences if they failed to comply with the order. The legal advocate from the shelter also contributed to the process. After each case was heard, she escorted the victim out of the courtroom. She also provided additional methods of support to victims who needed it.

The collaborative nature of the CDVC personnel resulted in efficient and effective case processing. As stated by one courtroom observer,

Each member of the team worked together so that the court system was able to process and move through the docket more efficiently and effectively. Each team member worked together in order to resolve cases to the satisfaction of the defendant and victim as well as the justice system. Each member of the court system worked well with each other communicating and assisting each other to help resolve the case so that each party in the case was informed as to the court process and making sure that they were pleased with the court's solution.

The collaborative process documented by observers may have had a positive influence on victims' and defendants' perceptions of their experience. Victim and defendant interview responses are displayed in Table 1. According to interviews with victims and defendants, most had positive feelings about their court experiences. When asked for their overall impression of the way their cases were handled, 74% of victims rated their impressions as either good or excellent. In comparison, when defendants were asked about their overall impression of the way their cases were handled, the most frequent response (34%) was fair. Forty-six percent of defendants rated the overall handling of their case as good or excellent. Only 16% of victims and defendants rated the handling of their case as poor.¹¹ Overall, victims and defendants had positive perceptions of the quality and professionalism of the CDVC. A majority (74%) of victims rated the overall quality and professionalism of the court as either excellent or good. Sixty-two percent of defendants rated the court as

Table 1
Domestic Violence Court Survey Responses (in percentages; *N* = 100)

Question	Victims	Defendants
What is your overall impression of the way your case was handled by the criminal domestic violence court?		
Excellent	20	20
Good	54	26
Fair	6	34
Poor	16	16
Don't know	4	4
How would you rate the overall quality and professionalism of the court?		
Excellent	40	22
Good	34	40
Fair	16	24
Poor	10	14
Don't know	0	0
How was the waiting time to hear your case?		
Excellent	12	30
Good	44	32
Fair	36	22
Poor	8	16
Don't know	0	0
Do you feel that the court gave you adequate time to explain your side of the story?		
Yes	90	68
No	10	24
Doesn't apply	0	8
Do you feel that the judge was concerned with your side of the story?		
Yes	72	44
No	16	30
Doesn't apply	12	26
Do you think that the outcome in your case was fair/just?		
Yes	77	68
No	23	32
Do you feel that you were treated with respect and dignity by the court?		
Yes	88	86
No	12	14
Do you think that the Lexington County domestic violence court's response to domestic violence cases is . . .		
Too easy	23	2
Too harsh	10	40
Just right	67	58

either excellent or good. Only 10% of victims and 14% of defendants rated the quality and professionalism of the court as poor. In addition, the majority of victims and defendants were satisfied with the amount of time they had to wait before their case was heard. Fifty-six percent of victims and 62% of defendants described the waiting time before their case was heard as excellent or good.

The positive experiences victims and defendants had with the court were not surprising given the extent to which the CDVC personnel indicated support for the court's mission. According to one CDVC personnel, the prosecutor,

In Lexington County we have one of the most proactive domestic violence programs in the state, maybe even one of the most proactive programs in the Southeast. It is all based on the personnel because of their dedication to the program. For example, our two investigators get warrants that nobody else would get. They are both very, very aggressive and that is why the program works.

The CDVC personnel expressed a comprehensive understanding of the dynamics involved in domestic violence cases and attributed much of the court's success to the working relationships among the court personnel. One investigator expressed that she obtains job satisfaction from knowing that she is helping people in need. She said,

Working domestic violence cases can be very rewarding. The thing that I like about it when I deal with the victims, they tell me, "No one has ever listened to me before. No one has ever believed me. No one has ever asked me those questions." Those are the things that make it worth it to me because you know that you are actually helping someone out of a terrible situation. Or even if you can't get them out right then, they know that they can contact you for help.

Although the majority of victims and defendants viewed their court experiences in a positive way, several recommended that the court could improve experiences for future victims and defendants by providing information in advance as to what to expect the court process to be like. For example, the following suggestions were made by victims as ways to improve the court experience: "Better communication with victims. No one sat down with you to explain the process;" "Victims should be told what to expect ahead of time;" and "Someone should have prepared victims prior to coming to court regarding what was going to happen."

Similarly, several defendants suggested that the court should have more communication with them prior to court so that they would have a better understanding of the court process. Defendants made the following suggestions about how the court could improve the process for future defendants: "Provide information to defendants of what to expect in court;" "Spend more time talking with defendants prior to court;" and "Have a pretrial phone call or

conversation.” These sentiments were confirmed by one judge who thought that many defendants did not understand what was taking place in court and that this lack of understanding had an impact on their decision to plead guilty. According to this judge,

They don't know what the court is all about. They don't know what they're doing. They don't tend to listen when they're in court because they're scared to death, so most of the victims...The defendants aren't getting treated fairly. They don't know what they're pleading to and that's what I try to explain at my bond courts on a CDV. I'll tell them to make sure they listen to the film that we show because it shows different ways they can be tried, but that doesn't stick in their head either because they're scared. I just try to listen to both sides. I don't prejudge them. I hate for them to stand up there and say “I'm guilty” unless they really, really know that they're guilty of the charge and what the charge is all about.

Victim and Defendant “Voice” in the Court Process

Overall, the majority of court observations indicated that victims were given an opportunity to address the court; however, many victims did not take advantage of this opportunity. In all cases involving a sentence through PTI, the judge first asked the victim if she or he had any objections because victim consent is a condition of the defendant's sentence. Most victims granted consent but did not choose to comment further.

The input from victims who chose to testify or address the court was diverse. Some victims testified against the defendants; however, some strongly defended their abusers. In one observed case, the victim testified against her abuser and was noticeably upset at the brevity of his sentence. In this instance, the defendant was found guilty and sentenced to time served. It was the defendant's second offense, and he had spent slightly more than a week in jail. The victim was clearly upset and confused. As the defendant walked out of the courtroom, the victim asked, “What was he found guilty of?” The victim advocate then led her out of the courtroom, attempting to explain what had happened. Another observed case involved a boyfriend as the defendant and his girlfriend as the victim. The responding officer testified in this case, and photos of the victim's injuries were entered into evidence as well as pictures of a torn, bloody shirt. When the victim was asked if she would like to address the court, she spoke in support of the defendant. She said, “The pictures look a lot worse than it was. I bruise easily. We have been together for 7 years and that is the only time he has hit me.” Nonetheless, the judge found the defendant guilty and sentenced him to 30 days or a \$1,025 fine, suspended upon the successful completion of a treatment program and payment of a \$225 fine.

Courtroom observations indicated that the most common request from a victim who was on friendly terms with the defendant was that the no-contact order be lifted to allow the defendant to contact the victim. Before each court session, the prosecutor addressed the issue of bond restrictions (no-contact orders) in her speech to victims and defendants sitting in the courtroom.

She stated that victims and defendants should contact her to request that the no-contact order be lifted, and if appropriate, she would request it from the judge. Although many victims and defendants made statements in court that could potentially have an impact on their case's disposition, the case outcome was not always what they anticipated. For example, in one case the defendant and victim wanted to reconcile and have the bond restrictions lifted; however, the judge did not feel that it would be to anyone's benefit for the couple to live under the same roof at that time. In another case, the victim was pregnant with the defendant's child. The defendant asked the judge to remove the bond restrictions (the no-contact order) so that he could see his child. The victim was asked how she felt about this and she stated that she wanted the bond restrictions to remain until the baby was born. The prosecutor instructed the victim to contact the court after her baby was born, at which time visitation could be resolved.

Although some victims chose not to speak when given the opportunity, when directly questioned they would usually offer helpful insight into the case. According to interviews with victims, 90% of those who addressed the court felt that they were given adequate time to do so, and 72% felt that the judge was concerned with their side of the story (see Table 1). According to one observer, the judge not only asked the victim if she had anything to say but also used a more direct line of questioning. For example, the judge asked the victim, "Does this situation pose a threat to you? Has he been to see you?" These specific questions encouraged the victim to have a voice in the process.

Courtroom observations indicated that many defendants were given an opportunity to voice their concerns to the court. Defendants who enter into pre-trial intervention are not afforded an opportunity to address the court, and defendants who enter a guilty plea also give up their right to address the court; however, based on the court observations, many do so at the discretion of the judge. In addition, the prosecutor would sometimes question the defendant about his or her actions and the rationale behind those actions. According to interviews with defendants, of those who had an opportunity to address the court, 68% felt that they were given adequate time to explain their side of the story, and 44% felt that the judge was concerned with their side of the story (see Table 1).

According to several court observations, victims' and defendants' concerns had an impact on the decision-making process. The observed impact, however, varied largely on the credibility of the victims and defendants. Several observations indicated that the outcome of a case would probably have been different if the defendant and victim were not given an opportunity to address the court. In several cases, defendants expressed concern about the need to remain employed because they were the sole supporter of their child/children. Courtroom observations indicated that the judge took family income and dependent children into consideration before sentencing a defendant. One courtroom observer noted,

Victim's and defendant's concerns had an impact on the decision-making process. If children were part of the relationship between the victim and the defendant, the judge and prosecutor considered the impact that the court's findings would have on the children. The best interest of the child was considered when determining treatment programs or fines, so as not to place an emotional or financial burden on the family of the defendant or victim or on them individually.

In another case, a defendant was charged with assaulting his wife. The victim in this case argued on the defendant's behalf and stated that mental illness was to blame for the incident. The judge ordered the defendant to be evaluated by the Department of Mental Health for treatment but imposed no fine or jail time. In another observed case, the statements made by the defendant appeared to influence the outcome of the case. In this case, the defendant was brought before the judge because he had failed to attend his pre-trial intervention appointments. The defendant told the judge that he was unable to attend the appointments because of conflicts with his work schedule, which meant he was at risk of losing his job as a truck driver. In this case, the judge delayed making a decision until the defendant had an opportunity to speak with court representatives about possible treatment alternatives. In general, judges did take into account what was in the best interest of all parties.

Although in many observed cases defendants were given an opportunity to voice their concerns to the court, there were instances when having a voice in the process did not lead to a defendant's desired outcome. For example, when addressing the judge, one defendant stated, "I am not a violent person. I would not have done that." The judge then reviewed the defendant's criminal history and laughed because the judge noted that the defendant had prior convictions for assault and criminal domestic violence.

Overall, the majority of the courtroom observations and interviews with victims and defendants indicated that an attempt was made by the court to give them input in the process; however, two defendants suggested that this is an area the court could improve for future defendants. According to defendants, the court should "give you a chance to explain your side of the story" and "listen a little more and realize that not everyone who comes in here is a bad person." One victim indicated that she was uncomfortable speaking in front of the entire courtroom and suggested that the court, "Put up a wall so that the entire courtroom doesn't hear your story."

Perceptions of Fairness, Justice, and Respect

The CDVC placed an emphasis on therapeutic options for defendants by exploring potential treatment needs of defendants on a case-by-case basis. According to interviews with victims and defendants, courtroom observations, and interviews with the court personnel, the CDVC replaced the traditional way of processing domestic violence offenders with a new problem-solving method that tried to identify and address the underlying cause of the criminal

behavior through treatment. According to a courtroom observer,

There was a great deal of emphasis placed on alternative methods of dispute resolution by the court. In nearly every case where the defendant was found guilty, part of their sentencing was the completion of a treatment program. The mental health counselor explained that once they are enrolled in the [treatment] program, a specialist decides what treatment would be beneficial to the offender.

Several representatives of the CDVC were very supportive of the court's emphasis on rehabilitation and treatment and specifically for first-time offenders. In fact, one investigator felt that the court's 26-week treatment program was not long enough to accomplish much with a "true" batterer. According to this investigator, "Domestic violence offenders are going to batter regardless of what you do for them, because it is ingrained in them." This investigator suggested that the duration of the counseling program should be increased to influence defendant behavior. The legal advocate from the domestic violence shelter also agreed that long-term therapy is necessary. She believed that continued quality counseling for offenders that focuses on issues of power and control and offender accountability is the only way that counseling is going to change defendants' behavior. One judge emphatically supported the court's emphasis on treatment and viewed offenders as being misguided because they see violence as a way of life. This judge emphasized the importance that treatment plays in addressing the underlying conflicts that lead to violence. As stated by this judge,

You know, the yelling and arguing is the way they communicate...it's a means of communication. They don't understand how to communicate outside of violence or yelling, and again, I don't think the violence comes from a hate or dislike. It comes from a communication barrier they can't seem to get past. Generally, I think the situation that we're addressing is what needs to be addressed. I think that the communication issue and the anger management issue needs to be resolved in order to save some of the relationships and stop the violence in the household.

In terms of perceptions of fairness and justice, victims and defendants were asked if they felt the outcome of their case was fair and just. Seventy-seven percent of victims and 68% of defendants believed the outcomes of their cases were fair and just. Victims and defendants also were asked if they felt they had been treated with respect and dignity by the court. An overwhelming majority (88%) of victims and defendants (86%) felt they were treated with respect and dignity by the court.

It is not surprising that the majority of victims felt that the court treated them with respect and that the court process was fair given the extent to which the court personnel considers the victim's needs and well-being during the entire process. One investigator acknowledged that in the past, the majority of domestic violence victims did not receive a great amount of support from the law enforcement community but that the CDVC approach to case processing

involves recognizing that many victims are reaching out for help for the first time. She stated,

A lot of police officers would tell victims that they are not social workers and not to call them anymore. I cannot do that. Especially if this is somebody that for the first time has reached out and is getting help and is really trying to get out of the situation. If you turn your back on them, they are not going to come back for help. They will just stay in that situation until they end up dead, or whatever may happen. There are so many reasons that women cannot leave. I think it is amazing that any woman ever gets out. Someone has to help them.

Another investigator acknowledged the importance of treating victims with respect by making their interactions with the criminal justice system positive, especially if it is their first time dealing with the system. This investigator said,

The way I treat the victim the first time may make or break my case, or make or break her ability to leave, or feel like she can trust the system, or feel like she's got somebody there who is going to be supportive of her. So I've got to treat these victims with respect so that they can have trust in me. They've got to know that I believe them and that I am going to help them.

Much of the attention that victims received was from the legal advocate from the domestic violence shelter. Some of the direct services provided by the legal advocate included attendance at bond hearings, assistance with alternative housing, providing transportation to court, assistance with completing legal forms, assistance with submitting forms for reimbursement of medical expenses from injuries sustained during the incident, assistance with safety precautions (changing locks at her residence, installing outside lights, providing a 911 cell phone), and assistance with preparing for court. According to the legal advocate,

We actually come to court with them. We help them prepare for presenting in front of the judge . . . staying composed and factual...keeping eye contact with the judge.... After court we refer them to our follow-up program. During follow-up we might work with them to find a job if they haven't had a job in the past. We also work with them if they have an interest in continuing their education. We've been successful at helping women get scholarships to go back to school and pay for childcare while they are in school. We help them from beginning to end.

CDVC personnel made an attempt to make sure that victims' needs were met, even after court was dismissed. For example, a courtroom observer noted,

Even after cases were decided, members of the court team would approach the victims and make sure that they understood the verdict and also understood what was required by both the victim and defendant. If the victim needed any assistance

with shelter or legal assistance, the team members were there to help obtain it.

Victims and defendants were also asked about the court's overall response to domestic violence. The majority of both victims and defendants thought that the court's response to domestic violence cases was "just right" (see Table 1). Two thirds (67%) of victims believed that this court's response was "just right," 23% believed it was "too easy," and only 10% believed the court's response was "too harsh." In contrast, only 2% of defendants thought that the court's response was "too easy," and 40% of defendants thought the court's response was "too harsh." The majority (58%) of defendants thought that the court's response was "just right." Additionally, victims were asked if, on the basis of their experience, they would recommend that other victims seek prosecution. Approximately 90% of victims said they would recommend that other victims seek prosecution.

Discussion and Conclusion

In an attempt to improve the judiciary's response to domestic violence cases, a specialized domestic violence court was established in Lexington County, South Carolina. The court implemented a number of changes to its response to domestic violence, such as an emphasis on collaboration between the judge, prosecutor, victim advocate, mental health counselor, sheriff's investigators, victim, and defendant. Additionally, the court focused on the individual needs and desires of both the victims and the defendants. Case outcome comparisons revealed a significant reduction in rearrests for domestic violence offenders processed in the new court system as compared to a historical sample of offenders processed in the traditional court setting. The current article shifts the focus away from the outcome evaluation data (Gover *et al.*, 2003) and onto the perceptions of the participants in this modified court.

Previous research has demonstrated that implementing procedurally just practices will often have positive effects on the perceptions of those involved (Tyler & Lind, 2001). More important, the process may have a stronger influence on offenders' subsequent behavior than the actual sanction imposed (Paternoster *et al.*, 1999). If defendants feel that they were treated fairly, then they are more likely to abide by court sanctions and reform their behavior. The process may also influence whether a victim will decide to report a future crime (Hickman & Simpson, 2003) or encourage other victims to prosecute.

Overall in the Lexington County CDVC, both victims and defendants suggested a high rate of satisfaction with the court. The majority of victims and defendants, for example, thought that their case was handled in a fair, good, or excellent manner. Additionally, the majority of victims and defendants thought they were treated with respect and dignity by the court. The interviews with court personnel and the court observations confirmed a high level of commitment to a fair and just process for both the victims and the defendants.

The interviews and observations highlight the court's success in providing

the victims and defendants with a voice in their case. Similar to findings from more experimental procedural justice research, the “voice effect” appeared to be quite strong in the minds of the CDVC participants. A number of victims, defendants, and court personnel focused on the opportunities for defendants and victims to express their concerns to the court. Both victims and defendants, on average, thought that they had been given adequate time to explain their side of the story.

As a result of the nature of the inquiry, it is impossible to link together the observations, interviews, and outcomes for each of the cases. This aspect is an obvious limitation; however, the results are still instructive as a guide for development and future inquiry of specialized domestic violence courts. Clearly, the rearrest data suggest that the new court reduced recidivism (see Note 1), and the interview data from the current study suggest that the court also was successful in providing a procedurally fair and just system for both victims and defendants.

Together, the results from the qualitative interviews and observations of the CDVC indicate that an effective courtroom work group emerged and that important systemic changes occurred in the manner in which domestic violence cases were processed.

Specifically, the court changed the focus of domestic violence prosecution from a traditional, passive approach to an active approach that emphasizes victim safety, offender accountability, and batterer treatment. Victims and defendants generally thought the court staff treated them with respect, felt the judge was concerned with their side of the story, and thought the outcomes of their cases were fair. These results suggest that specialized domestic violence courts that emphasize collaboration between law enforcement officials, prosecutors, judges, and treatment providers can be successfully implemented and can change the intervention process through which domestic violence cases are adjudicated. The contextual examination of procedural justice factors in this domestic violence court suggest that it is possible for the criminal justice system to be more effective in handling domestic violence cases if it focuses efforts on coordinating its response to involve multiple social services entities and at the same time holds domestic violence offenders accountable for their actions.

Notes

1. An interrupted time-series analysis was used to compare Lexington County’s monthly arrest rates of criminal domestic violence for 34 months prior to the implementation of the court to monthly arrest rates for 26 months after the implementation of the court. The analysis indicated that on average, arrest rates for criminal domestic violence significantly increased by approximately 6 arrests each month after the court was developed. In addition, domestic violence rearrest rates of a random sample of 189 offenders processed in traditional courts before the implementation of the specialized court were compared to rearrest rates of a random sample of 197 offenders processed by the specialized court. Offenders who were processed by the specialized court had significantly lower rearrest rates (12%) compared to the historical comparison group of offenders (19%). Overall, the results indicated that en-

forcement of criminal domestic violence increased while recidivism for domestic violence decreased in Lexington County after the inception of the court.

2. Unlike violence between strangers, there are powerful social, emotional, and economic factors that bind victims of domestic violence to their abusers (Fritzler & Simon, 2000).

3. Significantly diverse prosecutorial practices and procedures have been implemented within judicial systems to address violence against women cases. Although no single court has emerged as a model domestic violence court, the fundamental goals of many courts include victim safety and offender accountability (Tsai, 2000).

4. Prior to the establishment of the Criminal Domestic Violence Court (CDVC) in Lexington County, domestic violence cases were assigned to one of eight Lexington County magistrate courts. Magistrate courts in South Carolina process all nonfelony-related cases and can assign a maximum penalty of 30 days in jail or a \$1,000 fine. Because of the fact that magistrate courts process all misdemeanor cases, individual domestic violence cases did not get the attention they needed. In other words, because of a lack of resources in magistrate courts, many domestic violence cases were either dismissed or assigned minor fines. When minor fines were imposed on offenders, traditional courts did not hold offenders accountable for fines imposed. It was believed that the lack of resources and attention was allowing a continued trend of domestic violence in Lexington County.

5. According to South Carolina Code of Law Title 16, Section 25-20,

it is unlawful to: (1) cause physical harm or injury to a person's own household member or (2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.

The term *household member* refers to current and former spouses, persons who have a child in common, males and females who are currently cohabitating or have formerly cohabitated, and persons related by consanguinity or affinity within the second degree.

6. According to the recidivism analysis from the outcome evaluation, offenders who were processed in the CDVC spent a significantly longer amount of time in jail compared to offenders who were processed in traditional magistrate courts (Gover *et al.*, 2003). Specifically, offenders processed in the CDVC spent an average of 5 days in jail pretrial compared to offenders processed in traditional courts, who spent an average of 4.14 days in jail pretrial.

7. Formal job duties and responsibilities of criminal domestic violence investigators employed by the Lexington County Sheriff's Department include investigating incidents of domestic violence, securing and supervising crime scenes, reviewing evidence and reports, obtaining and serving search warrants, conducting searches, obtaining arrest warrants, apprehending and arresting suspects, interviewing victims and witnesses, questioning suspects, preparing statements, maintaining communication with informants, preparing cases for prosecution in court, providing court testimony as necessary, attending bond hearings, and conducting background investigations of suspects.

8. The decision to prosecute a case in the CDVC is not based on the willingness of a victim to testify in court. The decision to prosecute is based on the strength of the evidence in the case. It is not unusual for victims to contact the prosecutor to recant statements made to the responding officer, and often this is viewed as not cooperating with the prosecution. Many times victims will not attend court because they were intimidated or threatened by the offender. At the beginning of each court session, the prosecutor tells defendants that cases will be heard with or without the victim's testimony. Furthermore, defendants are told that if the CDVC has knowledge that the victim did not attend because of threats or intimidation by an offender, the CDVC can charge them with interfering with a state's witness, a 10-year felony.

9. According to Section 17-22-60, pretrial intervention is appropriate only where (a) there is substantial likelihood that justice will be served if the offender is placed in an intervention program; (b) it is determined that the needs of the offender and the state can better be

met outside the traditional criminal justice process; (c) it is apparent that the offender poses no threat to the community; (d) it appears that the offender is unlikely to be involved in further criminal activity; (e) the offender, in those cases where it is required, is likely to respond quickly to rehabilitative treatment; (f) the offender has no significant history of prior delinquency or criminal activity; and (g) the offender has not previously been accepted in a pre-trial intervention program.

10. In consideration of the fact that victims and defendants were asked to participate in the survey after their case was heard and while they were leaving the courthouse and to ensure a high rate of participation, researchers attempted to minimize time spent on the interviews from start to finish. Therefore, additional demographic data were not collected from victims and defendants who participated in the interviews. However, according to a random sample of criminal domestic violence offenders processed in the Lexington County court system between January 1997 and December 2000, 12% of offenders were female, the average offender age was 34, 20% of offenders were unemployed, and about 26% were African American (Gover *et al.*, 2003).

11. Because this question was closed-ended, we do not have explanations provided by victims and defendants as to why they thought their cases were handled poorly. However, we can speculate that the responses obtained at the end of the interview to the open-ended question shed some light on why some victims and defendants thought that the handling of their cases was poor.

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