



Referrals for Offender Treatment Evaluations and Services in Domestic Violence Civil Cases Without Criminal Findings: Challenges and Recommendations

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Introduction

This white paper provides contextual information and highlights policy issues concerning individuals who are referred to a Domestic Violence Offender Management Board (DVOMB) Approved Provider as a result of a civil court order AND who do not have any pending criminal charges nor a recent criminal conviction related to domestic violence. This issue came before the DVOMB at the request of professionals operating in the civil legal arena, who were finding it difficult to refer individuals who did not have a prior criminal conviction for evaluation and treatment services. If an offender has both a civil and criminal order requiring a domestic violence offender evaluation and treatment as recommended, the DVOMB *Standards and Guidelines* apply and shall be followed. However, in instances where there is not a criminal filing or sentence leading to the referral for services, the absence of overt authority and established practice guidance leaves DVOMB Approved Providers uncertain of how to appropriately and safely engage with this population. This white paper presents background information, key considerations and identified concerns, and a discussion of the statutory authority for DVOMB Approved Providers (hereafter as Providers)

to engage with individuals referred for treatment through civil cases. Recommendations to address identified areas of concern are included.

For the purposes of this white paper, the civil legal system includes domestic relations cases (dissolution of marriage/divorce and allocation of parental responsibilities/child custody), civil protection order cases, and dependency and neglect cases initiated by local departments of human services' child welfare divisions. These cases often involve allegations and findings of domestic violence. The Best Interest of the Child Standard § 14-10-124, C.R.S. used in both domestic relations and civil protection order cases, specifically states that the court may refer a person found to have committed domestic violence for an offender evaluation and/or treatment. However, the statute does not mention the DVOMB and is silent as to how the referral process is to occur.

The DVOMB *Standards and Guidelines* are specific to individuals who are convicted and sentenced according to § 16-11.8-103(4)(a)(II), C.R.S. for crimes which meet the statutory definition of domestic violence¹. For cases that fall outside the purview of the DVOMB, Providers are not bound by the *Standards and Guidelines* and may exercise discretion regarding if and how to evaluate and treat individuals, including individuals referred solely by civil court order. It is important to note that domestic violence offender services are not intended or appropriate for victims of domestic violence. There are significant differences between criminal and civil courts in how they may address the domestic violence allegations. These differences include variance in how domestic violence is defined, the burden of proof required for a finding of domestic violence, how institutional systems approach and respond to domestic violence cases, and the resources available for oversight. Specifically, DVOMB stakeholders have raised concerns about the civil legal system's lack of infrastructure for accountability and multi-disciplinary oversight of offenders, whereas such elements do exist within the criminal legal system and are identified as central to

¹ C.R.S. 18-6-800.3(1): "Domestic violence" means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. "Domestic violence" also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

appropriate intervention. As a result, DVOMB Approved Providers have expressed reservations about working with offenders who fall outside of the *Standards and Guidelines*.

Addressing domestic violence is important not only for the safety of the victim, but also for the protection of any children involved within that family system. The negative intergenerational impact of domestic violence on children has been demonstrated unequivocally in the literature (Ireland and Smith 2009; McDonald et al. 2006). For children who see a caregiver harmed, who may be present for and injured during violent incidents, and who may be subject to developmentally inappropriate expectations by an offender parent, these experiences create toxic stress. Children are considered a vulnerable population for which experiencing domestic violence during formative and developmental years can increase risk factors associated with important developmental domains (family-of-origin disadvantage, parent stressors, adolescent stressors, antisocial behaviors, family violence, delinquent peers, early intimate relationships, educational experiences).²

Terms to be used in this paper

When discussing domestic violence, there are a number of varying terms used in different professional contexts to describe the behaviors of concern, the people using the concerning behaviors, and the people who are the targets of the concerning behavior. For the purposes of clarity and consistency the various terms are listed below, and the particular language that will be used within this document is identified.

The behaviors of concern when discussing domestic violence are variously referred to in different contexts as domestic violence, domestic abuse, abusive behavior, battering, coercive control, interpersonal violence and intimate partner violence. Descriptively, the behaviors of concern may include using intimidation, isolation, emotional abuse, threats, financial abuse, physical and sexual violence, and other forms of violence against a current

² A 2015 study by Smith et al. found that the cumulative effect of risk factors equated to a person being 1.25 times more likely to commit IPV in emerging adulthood and 1.18 times more likely to commit IPV in adulthood, regardless of gender. The negative short- and long-term impacts on children underscore the importance of meaningful intervention with offenders. Treatment for domestic violence offenders requires specialization when brought to the attention of caseworks, judicial officers, and attorneys.

or former intimate partner. Within this document these behaviors will be referred to as domestic violence.

A person engaging in domestic violence is variously referred to in different contexts as a domestic violence offender, the person using abuse, perpetrator, offender, abuser, individual who commits domestic violence offenses, batterer, and offending party. The multi-dimensional components of an individual are respected and are not intended to be minimized in selecting a single, potentially pejorative, term for referring to people using domestic violence. Within this document the terms “domestic violence offender” and “offender” will be used to refer to these individuals.

A person who is the target of domestic violence is variously referred to in different contexts as the person experiencing harm, the person experiencing abuse, the person surviving abuse, domestic violence survivor, survivor, victim, victim-parent and adult victim. The multi-dimensional components of an individual are respected and are not intended to be minimized in selecting a single, potentially pejorative, term for referring to people who are the targets of domestic violence. Within this document the term “domestic violence victim” and “victim” will be used to refer to these individuals.

Background and Scope

For a variety of reasons, domestic violence may be addressed in civil courts without concurrently being addressed in criminal courts. Victims seeking remedy following domestic violence frequently are not engaged with law enforcement or criminal legal systems and instead are solely involved in the civil legal system. Civil legal involvement may be via civil protection orders or domestic relations matters, where the abuse may be addressed. It is worthwhile to note that not all criminal acts are charged as domestic violence even when the behaviors fit a broader domestic violence definition. Frequently, victims of domestic violence are seeking help within civil systems in circumstances where the offender has not been criminally charged for abusive acts.

There are three types of civil cases where domestic violence may be identified and offenders referred to a Provider for services: civil protection orders; domestic relations

cases; and dependency and neglect cases³. These three case types differ significantly in how they come before the court and in the focus of the court's interventions. However, the one thing they have in common is that there is often no "charge" or "conviction" for acts of domestic violence.

Civil protection order cases are brought by a victim of domestic violence seeking a court order prohibiting the offender from contacting or being physically near the victim. These cases may also include temporary orders regarding child custody. The focus of these cases is safety and the protection of the victim (and children) from continued acts of abuse by the offender. The offender may be ordered to complete an offender evaluation and treatment as a result of a court's order in these cases.

Domestic relations cases include dissolution of marriage (divorce) and allocation of parental responsibilities (child custody). The Best Interest of the Child Standard § 14-10-124(1.3)(a), C.R.S., provides a definition of domestic violence to be applied in these cases. The goal of these cases, where children are involved, is to ensure the best interests of the children are prioritized when determining parenting time and decision-making responsibility. Courts often focus on the ability of the parents to work together for the children's best interest, and are supposed to consider the adult victim's and the children's safety, along with the impact of domestic violence, when doing so. An order for an offender evaluation and treatment may be issued at any time while a case is moving forward, and may be done "post-decree," meaning after the initial custody orders are issued, if there is a filing seeking to change the current parenting orders.

Dependency and neglect cases are brought by a county Department of Human Services in situations where a child has been abused or neglected and where court ordered service plans are seen as necessary to establish safety for the child. In these cases, the parent(s) or caregiver(s) of the child are the parties who are considered responsible for the harm to the child. The goal in these cases is to remedy the factors that are creating risk to the child,

³ Pursuant to § 14-10-124(4)(IV)(f), C.R.S., if a finding of domestic violence is made, the offending party (hereafter client) may be ordered to participate in a domestic violence offender evaluation and treatment as recommended.

through the successful completion of a treatment plan by each parent. Referral for offender evaluation and treatment may be part of a treatment plan in such a case.

The difference between the strictly voluntary nature of both civil protection order and domestic relations cases and the court-ordered nature of dependency and neglect cases is important to note here. Dependency and neglect courts are treatment and case management oriented, with a greater capacity to provide both ongoing monitoring of compliance and the involvement of a multidisciplinary oversight team. Further, these cases are brought by a government agency, where the aforementioned cases are brought by one of the parties to the case.

As mentioned above, civil courts are currently authorized to order offender evaluations and treatment to identify and address the individual factors leading an offender to engage in domestic violence, and such evaluation and treatment can be invaluable in ensuring that court orders are appropriate and safe. However, one important consideration is that with civil referrals there is no requirement that the individuals conducting offender evaluation and treatment services must be approved by the DVOMB. Furthermore, when civil courts do order an offender evaluation and treatment, the judicial officers are often met with resistance by the offender and / or with unwillingness by DVOMB Providers to become involved in civil cases. The resulting lack of evaluation and treatment, or provision of services by an individual who is not DVOMB approved, leaves the presenting dynamics unaddressed and leaves the court without important information for ensuring appropriate orders.

Particularly in the domestic relations and civil protection order arena, evaluation and treatment can be invaluable in ensuring that orders regarding parenting time and contact between the parties are appropriate and safe. Ideally, an offender evaluation would be ordered during the pendency of the case, so that the court would have the results at the permanent orders stage and could schedule additional hearings to ensure compliance. Such sequencing is more likely to happen in a domestic relations case than in a protection order matter. Compliance hearings, such as are being proposed here, are not standard in domestic relations and civil protection order cases and will require additional court time. Of note, the absence of compliance hearings is an area where Providers have expressed concerns and

desire an alteration in court protocol. Compliance hearings are a mechanism to ensure compliance with court orders and to impose consequences for failure to comply, and without this mechanism such orders can be ignored and rendered immaterial and may even increase the risk to the survivor and the children of ongoing or amplified abuse. Increased safety risks to the victim and children can result when the offender fails to comply with court ordered treatment and the victim is forced to report non-compliance to the court because there is no such system in place to track offender compliance.

In the dependency and neglect arena, many mechanisms are already in place to require compliance with court orders and impose consequences for non-compliance. In every case, a treatment plan, referred to as a Family Service Plan, is created based on a caseworker's assessment of each parent's and each child's individual needs. For a domestic violence offender, orders for evaluation and treatment can and should be a part of their family service plan. Dependency and neglect cases involve ongoing monitoring of progress and compliance, which better aligns with the accountability infrastructure in which Providers can safely and effectively operate. There is also often more collateral information available in dependency and neglect cases due to the county's and court's involvement. The ability for a Provider to work with a caseworker, county attorney, guardian ad litem, respondent parent counsel and others on these cases provides greater case management and accountability when implemented consistently. It is encouraged that Providers who take on dependency and neglect cases seek to establish a Multi-Disciplinary Treatment Team (MTT) with relevant stakeholders. Likewise, additional information for caseworkers and others regarding the importance and purpose of MTTs would assist in facilitating meaningful oversight. Beyond documenting an individual's attendance or non-attendance in treatment, MTTs facilitate ongoing assessment of dynamic risk factors and inform decisions about when and how an offender's contact with children should change. Without the involvement of other multidisciplinary professionals providing case management and accountability to the requirements of the treatment plan, reporting of offender non-compliance still relies on the victim. This can jeopardize victim and child safety and promote a false perception that the victim lacks capacity to protect themselves and their children.

Due to the complexity and seriousness of domestic violence, and the potential for increased safety risk when services are not specialized, professionals who work with domestic violence offenders must demonstrate competencies and expertise in domestic violence offender dynamics and victim safety. In order to become a DVOMB Approved Provider, there are educational, training, and skill-based requirements that must be met while under the supervision of a Domestic Violence Clinical Supervisor. Additionally, applicants seeking approval with the DVOMB must hold a professional mental health license or certification with the Colorado Department of Regulatory Agencies (DORA) before approval can be granted. Upon approval, these individuals are eligible to receive referrals for domestic violence offenders as defined in C.R.S. § 16-11-102, C.R.S.

The Importance of Case Coordination for Purposes of Victim Safety

The DVOMB Standards support a coordinated approach in which a Multi-Disciplinary Team is used to communicate and coordinate throughout the treatment process. To be effective, this approach must include interagency and interdisciplinary teamwork, as offender treatment cannot be successful when done in isolation from other systems. This Multi-Disciplinary Team commonly consists of a supervising agent or case manager, the DVOMB Approved Provider, a victim representative, and other adjunct professionals, where applicable. Members of this team possess critical expertise and knowledge that, once shared, can enable improved decision-making regarding the oversight and case management among the team. This team approach enhances not only public safety but the supervision and accountability of the individual under supervision.

Common Areas of Concern

In the last few years, DVOMB has heard of an increase in requests for offender evaluation and treatment originating in civil court proceedings. In early 2019, several Providers notified the DVOMB about concerns related to working with individuals referred by a civil court order and who do not have any pending criminal charges or a recent criminal conviction related to domestic violence. The concerns raised by Providers, which are outlined below, cited issues with applying the DVOMB Standards and Guidelines to civil cases.

- A. Offender Accountability: DVOMB treatment and evaluation relies on offender accountability as a key measure of initial risk and of ongoing progress throughout the treatment process. Specifically, an offender is expected to express and /or develop enhanced insight into the abusive nature of the behaviors that led to their being referred to a domestic violence offender treatment program. This is foundational to the development of an individualized plan to change future communication and problem-solving, and to redress abusive behaviors after the completion of treatment. Educating all involved parties on accountability as the cornerstone of treatment is imperative to successful treatment. The foundational need for accountability can sometimes become an impediment to an offender engaging in the treatment process, which in itself is important information regarding future risk. (See Recommendation 1)
- B. Offender Evaluations: Providers are required to use various documentation and records (e.g., criminal history, police report, victim impact statement) when conducting an offender evaluation. Individuals referred by a civil court often lack this detailed documentation as to allegations or findings of domestic violence, which may impact the timeline for completing the evaluation. This may also force Providers to rely on information self-reported by the individual being evaluated, and that individual may withhold and distort facts in order to deny the offense or minimize its impact on the victim. Providers do not have access to the court in order to request additional information, should it be available. Offender evaluations under the DVOMB *Standards and Guidelines* also presume the individual being evaluated is “guilty” as the result of a criminal finding. This presumption of guilt is often protested by the referred party in civil cases because admissions of abusive behavior may introduce constitutional issues of due-process regarding self-incrimination. Such concerns can lead to resistance to participating in the offender evaluation. The referred party may be concerned that an offender evaluation substantiating domestic violence behaviors could impact civil court proceedings (e.g. parenting time, decision making, protection order) in ways they do not want it to. Further, there are currently few consequences that can be imposed by a civil court for someone who refuses to undergo an offender evaluation. Individuals who do undergo a domestic violence offender evaluation often contest the results and the validity of any treatment recommendations included.

Despite these concerns, the purpose of an offender evaluation is not to determine guilt or innocence but rather to assess the referred party's need for treatment, determine what type of treatment is needed, and identify the risk level and any additional needs the offender may have related to containment, stabilization and safety. (See Recommendation 1 and 2)

- C. Court Oversight for Engagement in Offender Treatment: As noted above, parties referred for domestic violence offender treatment who do not have pending criminal charges or a recent criminal conviction related to domestic violence are reported to be highly resistant and less amenable to starting treatment. Historically, penalties or consequences have not been imposed for individuals referred by a civil court who fail to participate in treatment. This has subsequently led to high drop-out rates which implicates victim safety. The utilization of offender evaluation and treatment by a DVOMB Approved Provider has not yet materialized due to barriers in the civil arena. Addressing these issues at the policy and implementation level may facilitate more availability of Providers as well as interest by individuals in the civil legal arena. (See Recommendation 2 and 3)
- D. Liability and Complaints: Providers report concerns with accepting offenders who are referred by civil courts due to having experienced a higher percentage of these clients filing complaints against their licensure or certification through the Colorado Department of Regulatory Agencies (DORA). While overwhelmingly the complaints allege practice out of scope and are subsequently dismissed as unfounded, the increased potential of being grieved has a chilling effect on providers accepting civil referrals. Providers note the risk to their licensure, the additional time and energy associated with responding to formal complaints, and potential increases in cost for liability insurance as factors that disincentivize their accepting these referrals. It is believed that current ambiguity regarding guidelines for Providers when accepting civil referrals contributes to a higher incidence of grievances being made by this population. Were there to be guidance from the DVOMB on these cases, Provider concerns regarding how their actions may be understood by regulatory bodies would be mitigated. (See Recommendation 1)
- E. Case Management Support Systems: Domestic violence offender treatment requires accountability and enforcement measures that do not currently exist in civil cases

originating from domestic relations and child welfare cases. The DVOMB Standards and Guidelines are constructed with a multi-disciplinary approach to the case management of offenders as they progress in treatment. In criminal cases, a supervising agent (e.g., probation officer or a parole officer) will coordinate and communicate with a Provider, serving as a way to provide containment of the offender while in the community. Providers are reluctant to take on civil cases without the multidisciplinary support required for effective monitoring or containment of the offender. Without multidisciplinary support, Providers report having to serve in a dual-role as the therapist as well as the supervising agent. This is particularly concerning with higher risk individuals, when repeat offenses or escalated violence is occurring. Dependency and neglect cases have better infrastructure to operationalize this multidisciplinary work, as compared to cases from a domestic relations or protection order court. Addressing current practices within the Division of Child Welfare and training at the county level regarding how case workers can participate in the multidisciplinary treatment team would result in better outcomes in these cases. Domestic relations and civil protection order matters present a different set of challenges in that these are not treatment courts and do not have the means to monitor offender compliance that exists in dependency and neglect matters or criminal courts. Without a system in place to track offender compliance and prioritize victim safety, victims themselves are forced to seek the assistance of the court when the offender fails to comply with court ordered treatment, placing them in the dangerous position of engaging the court at a time when their safety may be at the greatest risk. (See Recommendation 2 and 4)

- F. Within civil protection order and domestic relations courts, judicial officers and court personnel (including court-appointed professionals such as child and family investigators and parental responsibility evaluators) are typically not familiar with the DVOMB or its function. This is true for attorneys operating in this realm as well. In addition, notably, 85 percent or more of litigants in these matters are not represented by attorneys and thus likewise are typically not familiar with the DVOMB or its function. In addition to the lack of knowledge of DVOMB as a resource, these systems are not designed for ongoing monitoring or accountability outside of the pendency of the case, which can be anywhere from two weeks to a year. This is due

to a number of factors including lack of court resources and lack of statutory guidance for judicial personnel and others working in this system.

- G. **Funding for Services:** County child welfare services primarily use CORE dollars to pay for evaluations and services needed in Dependency and Neglect cases. There are limitations on the use of CORE funding for offender services; however, it is not clear where this restriction is defined. At the time of this publication, it appears there is inconsistent access to CORE funding - some jurisdictions have been able to use CORE funding for evaluation and treatment services of a Provider. Other jurisdictions have reported the opposite. Without supplemental funding to pay for Provider services, reliance on a self-pay model acts as a disincentive to those being referred and increases their initial resistance to undergo an evaluation. Within civil protection order and domestic relations courts, there are no established sources of funding for evaluation or needed treatment services. In fact, any costs associated with these matters are strictly the responsibility of the parties and are allocated at the court's discretion, meaning a victim could be required to assist with the cost of an offender's evaluation and treatment. (See Recommendation 4)
- H. **Treatment Victim Advocacy:** Under the DVOMB Standards and Guidelines, a Treatment Victim Advocate (TVA) is utilized as part of the multi-disciplinary approach to treatment. TVAs are unique to the DVOMB Standards and Guidelines and are distinctly different from community-based advocates and system-based advocates. Both community-based advocates and system-based advocates are defined in statutes that specify their level of confidentiality and privilege while working with a victim of domestic violence. Treatment Victim Advocates, on the other hand, are defined in the DVOMB Standards and Guidelines, which are a derivative of its statutory authority to create standards for individuals who are convicted and sentenced according to § 16-11.8-103(4)(a)(II) C.R.S. for crimes which meet the statutory definition of domestic violence. As a result, the authority and scope of a TVA is limited to criminal cases. The use of a TVA in a civil case to promote the multi-disciplinary approach could be disputed on the grounds that the TVA is codified in the DVOMB Standards, which are intended for criminal-involved populations. Unlike community-based domestic violence victim advocates, TVAs do not have any confidentiality or privilege

and their engagement could jeopardize victim safety in civil cases. This concern may be reconciled by clarifying the purview of the DVOMB to include civil cases and defining the role and purpose of TVA's in statute. (See Recommendation 1)

Recommendations

1. Broaden the purview of the DVOMB to include domestic violence cases arising from civil courts

Much has changed in the understanding of domestic violence in the years since 2008 when the DVOMB enabling statutes were last modified. Requests for Providers to work with offenders in civil cases are increasing, and Providers want guidance to do so effectively. Providers represent a qualified body of professionals who are uniquely trained and skilled to provide services with this population. The DVOMB is currently unable to promulgate any guidance to Providers because the board's purview is limited to criminal cases. As a result, there is a lack of standardization in how civil cases are approached and overseen with regard to the evaluation and treatment of domestic violence offenders. Additionally, access to funding for these services is often limited.

Changes in statute may alleviate these barriers by expanding the purview of the DVOMB in order to authorize its role in the creation of Standards and Guidelines for civil cases. This would require broadening the definitions in § 16-11.8-102(2), C.R.S. to include a more comprehensive definition of a domestic violence offender to include someone who engages in domestic abuse as defined in § 13-14-101(2), C.R.S. or domestic violence as defined in § 14-10-124 (1.3)(a), C.R.S. This would also necessitate clarifying the DVOMB's purview in § 16-11-103(4)(a)(2), C.R.S.

2. Update the Best Interest of the Child Standard to align with requirements to use a DVOMB Approved Provider and Ensure Compliance

Currently, the Best Interest of the Child Standard (§ 14-10-124, C.R.S.), used to address parenting time and decision-making in cases involving allocation of parental responsibility and care and control of minor children in civil protection order matters, includes domestic

violence offender evaluation and treatment as something a court may order if a party is found to have committed domestic violence⁴. However, the language in § 14-10-124 (4)(f), C.R.S. does not mention the DVOMB and does not provide any guidance to the court, court-ordered professionals, or family law practitioners regarding how any ordered domestic violence offender evaluation and treatment is to be achieved.⁵

While the statute provides that the court may review a report obtained from the Provider and use that to determine future court orders, the statute does not designate the qualifications needed for Providers or provide a framework for working with Providers, monitoring progress, ensuring accountability, or multidisciplinary collaboration. Court ordered treatment must also account for parenting deficits using validated interventions that are designed for domestic violence offenders, such as Caring Dads⁶. Further, domestic relations and protection order/county courts are not equipped to oversee a process that includes these factors.

In order to address these concerns, the statute would need to include several changes:

1. All domestic violence evaluations and treatment ordered by these courts must be provided by DVOMB Approved Providers. Section 14-10-124(4)(f), C.R.S. should be amended to make this explicit.
2. Court orders for DV offender evaluation and treatment must include specific documentation and information, such as detailed findings regarding the domestic violence, any evidence on which the court relied in making such findings, and any other information the court believes will assist the evaluator in assessing the

⁴ Domestic violence is not generally addressed in these cases unless the parties share children. As Colorado is a no-fault divorce state, issues such as property division, spousal maintenance, or other matters that courts address whether or not there are children involved, do not currently take a history of DV into consideration.

⁵ “When the court finds by a preponderance of the evidence that one of the parties has committed domestic violence, the court may order the party to submit to a domestic violence evaluation. If the court determines, based upon the results of the evaluation, that treatment is appropriate, the court may order the party to participate in domestic violence treatment. At any time, the court may require a subsequent evaluation to determine whether additional treatment is necessary. If the court awards parenting time to a party who has been ordered to participate in domestic violence treatment, the court may order the party to obtain a report from the treatment provider concerning the party's progress in treatment and addressing any ongoing safety concerns regarding the party's parenting time. The court may order the party who has committed domestic violence to pay the costs of the domestic violence evaluations and treatment.”

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offender's need for treatment and determining what type of treatment is needed (if any). Parties should not be ordered to complete an evaluation for purposes of making such a finding.

3. Victims of domestic violence should be advised by the court that they may be contacted by a DVOMB Approved Provider's agency or practice, of the purpose of the evaluation, of the role of the TVA, and that they may choose to participate in the evaluation and treatment process. Furthermore, victims should be encouraged to seek support from a confidential community-based domestic violence victim services agency and offered resources to locate one in their community.
4. Victims should not be ordered to pay for offender evaluations, treatment or any other cost that is a result of the offender's abusive behavior. Such orders undermine the goals of treatment, burden victim finances, and place the responsibility for the offender's behavior on the wrong person.
5. The legislature must address the lack of infrastructure and lack of funding that allows offenders to avoid compliance with civil court orders and limits the consequences for failure to comply with findings of contempt of court and subsequent remedial or punitive measures.

3. Enhance and Strengthen Civil Protection Order Statutes

The civil protection order process, while quite different from the domestic relations process, is similar in the way the Best Interest Standard is used to address parental responsibilities. However, due to the abbreviated nature of that process⁷, courts are less likely to order an evaluation and treatment while the case is ongoing. Additionally, where there are children involved, judicial officers frequently decline to address the care and control of children (short-term orders regarding parenting time and decision-making responsibility), requiring victims to file cases in domestic relations court instead. This undermines victim autonomy and reduces the effectiveness of the civil protection order in achieving victim and child

⁷ The Civil Protection Order process, outlined in § 13-14-101, C.R.S., *et seq.*, begins with the issuance of a Temporary Civil Protection Order (TPO) and is followed by a hearing on the matter in no more than 14 days from the date the TPO is issued. While it is common for this process to take longer, rarely are both parties present before a judicial officer on more than two occasions.

safety. Because judicial officers assume that a victim seeking a civil protection order will not have further contact with the offender, they are most likely to order offender evaluation and treatment in cases where the parties share children. These concerns present additional challenges for updating the statute. Changes to the protection order statute that may assist in this are:

1. Provide the court with continuing jurisdiction to address compliance both during the pendency of a temporary protection order, which may be issued for up to one year, and throughout the existence of a permanent protection order, which is no less than two years and can remain in place indefinitely.
2. Require courts to issue care and control orders when requested by either party, and specify that the reference to §13-14-105(e)(IV), C.R.S. includes all possible remedies outlined in §124-10-124(4), C.R.S.
3. Address the same concerns outlined in subparagraph 2 above.

4. Direct the Colorado Department of Human Services to promulgate policy and procedural changes needed sustain ongoing case coordination with treatment

The Colorado Department of Human Services' Child Welfare Sub-Policy Advisory Committee should ensure that any orders for domestic violence offender evaluation and treatment comply with § 16-11.8-104(1) that mandates the department of human services to refer to only DVOMB Approved Providers. It may be beneficial for there to be similar language in Title 19 that reflects this requirement for the Colorado Department of Human Services. Expanding the purview of the DVOMB and its mandates to civil cases would likely also reconcile the issues with using Treatment Victim Advocates in non-criminal cases. This group should also address the ability of county departments of human services to use CORE dollars or other funding streams to fund Provider services.

Caseworker Involvement in Promoting Accountability and Engagement in Treatment Within Child Protection

The primary tool to orient caseworkers on addressing domestic violence is the Domestic Violence Practice Guide for Child Protective Services (Practice Guide). This tool, created by

the State Division of Child Welfare, is intended to support case practice when domestic violence and child maltreatment concerns are co-occurring. However, it is reported that the Practice Guide is underutilized by case workers and predates the adoption of Differential Response. Underutilization of the Practice Guide is attributed to ongoing turnover with case workers, a lack of standardization in training expectations regarding this content, and limited opportunities for case workers and supervisors to be trained on the Practice Guide and its use. The impact of this underutilization is that Providers who want to engage with caseworkers frequently need to provide additional training and guidance as to the core dynamics of domestic violence, offender pathologies, and treatment approaches. It would be helpful to Providers if initial and ongoing training on such content were provided to caseworkers, which could be achieved through standardized training on and application of the Practice Guide. The Practice Guide may assist caseworkers in understanding how to engage with offenders. Beyond this individual approach, finding ways for caseworkers to meaningfully partner with DVOMB providers and other MTT professionals will enhance the information available to dependency and neglect courts for case decision making and the likelihood of offender engagement. Caseworker actions and MTT oversight together would reduce the risk of future abusive behaviors and / or would flag the need for additional containment to achieve safety.

Conclusion

Due to its lack of statutory purview, the DVOMB cannot direct Providers as to whether or not and to what extent the DVOMB Standards and Guidelines should be applied to offenders referred through civil court orders. However, Providers have the training and expertise to address the presenting symptom profiles of people being referred regardless of whether the referral originates from a criminal or a civil context.

The DVOMB is uniquely positioned to provide structure and support that enables Providers to accept offenders referred from civil cases and for TVAs to participate in these matters. Without said support, there is a large gap in services leaving systems unable to provide for families impacted by domestic violence. Because civil legal systems are ill equipped to support and prioritize victim and child safety, these issues are overlooked and the current system is often misused to the detriment of the victim and their children.