NOTE
BECAUSE THERE WON’T BE A “NEXT TIME”:
WHY JUSTICE COURT IS AN INAPPROPRIATE FORUM
FOR DOMESTIC VIOLENCE CASES

Rebecca S. Ross*

INTRODUCTION

The 8-year-old boy ran out of his home and into the cold Monday night, his shrill scream for help echoing down the street as his mother’s boyfriend battered her inside. His 11-year-old brother already had escaped to a neighbor’s house and was hysterical, talking with a 911 dispatcher just before 8 p.m. Neighbors said when Tonja Marie Nash ran from the house she didn’t get far. Keith Lamont Morton pointed a shotgun and fired into her back. Morton then aimed at the fallen Tonja’s head and pulled the trigger a second time before kicking her motionless body and walking back inside. . . . Following the shooting, the two boys ran to their mother’s bleeding body. Tonja was still alive when police arrived, but was pronounced dead when she arrived at the hospital . . .

On October 17, 2006, Tonja Nash became a tragic statistic—another victim of domestic violence homicide. Unfortunately, for someone studying characteristics of domestic violence, Tonja’s story represents a frightening escalation of an otherwise indistinct case. Police reports stated that the previous Thanksgiving, after a fight over the turkey dinner, Morton attempted to strangle Tanja. He was charged in justice court with a class B misdemeanor assault, and ordered to attend domestic violence counseling. His case was scheduled to be reviewed the month following the killing. Instead, Morton is now serving a twenty-year-to-life sentence for Tonja’s murder.

* © 2011 Rebecca S. Ross, Junior Staff Member, Journal of Law & Family Studies; J.D. candidate 2012, S.J. Quinney College of Law, University of Utah.


2 Id.


4 See supra note 1.

5 Id.
Domestic violence statistics speak for themselves. In Utah, there are approximately one murder and three suicides resulting from domestic violence every month. Nationally, four women, one man, and three children die as a result of domestic violence each day. This means that, on average, one out of three adult homicides are domestic violence homicides. It is often cited that one in every four women will experience domestic violence in her lifetime. Conservative estimates put the number of women annually assaulted by an intimate partner at one million. Other surveys indicate that as many as four times this number are battered each year.

Given the gravity and prevalence of domestic violence in our society, the issue deserves to be confronted with equal weight in our courts. As it stands now in Utah, the majority of these cases are prosecuted in justice court. Justice courts serve a unique and important function within the court system as a whole. The justice court model was designed to increase efficiency and promote informality. This model was not, however, designed to address the complicated and confusing needs of domestic violence offenders and victims. Most importantly, many of the reasons for implementing justice courts are the very reasons why these courts are inappropriate for such cases.

Problems inherent in the nature of domestic violence cases warrant reconsideration of this practice. These cases should not be addressed alongside traffic and loitering tickets. Domestic violence offenders differ greatly from the petty criminals more often seen by these courts, and should be treated accordingly. The main goals of domestic violence statutes are to reduce violence in the community, keep victims safe, and hold perpetrators accountable. The victim impacts and societal harms that accompany these cases often require particular and
creative remedies to further these goals. Too often, the informality and income-generating goals of the justice court system stand in direct conflict with the needs of the parties in a domestic violence case.

Part I of this Note will discuss the benefits and drawbacks of the justice court system. This Note does not intend to provide an in-depth analysis of the history or progress of the system, but rather a brief introduction to both its functions and shortcomings. Part II will address the complex and distinctive issues associated with domestic violence. Part III will, in turn, analyze how this particular type of case works within the dynamics of the justice court system. Part IV suggests various options, both dramatic and modest, to address the problems that are uniquely magnified when domestic violence is prosecuted in a justice court setting.

I. THE JUSTICE COURT SYSTEM: TRIUMPHS AND TRIBULATIONS
IN THE PEOPLE’S COURT

With roots dating at least to the Middle Ages in Western Europe and to ancient Rome, the justice court system has seen its share of both commendation and controversy. In early colonial America, the justice of the peace system provided the most common source of local justice. Later, as both society and the legal system became more complex and sophisticated, most large eastern cities eliminated the model. However, today numerous states still rely on these courts to provide justice, particularly in rural areas.

Justice courts have been hailed as inexpensive, informal, convenient, and relatively friendly forums in which to resolve minor disputes. One major benefit, the inherent informality, allows for an environment where people need not follow all the technical procedures of an “on-the-record proceeding.” The process thus becomes more efficient, and is particularly advantageous as justice courts hear only misdemeanors. Indeed, the vast majority of cases in justice courts involve issues like speeding tickets and dog bites. Simply put, justice courts provide a convenient place to take care of minor disputes “without having to sit for hours in the district court next to a hardened felon waiting for the judge to hear your case.” In Utah, counties and municipalities are statutorily authorized to establish

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15 Id. at 733.
16 Id. at 734.
17 Id. at 736.
18 Id. at 731.
19 Id. at 739.
20 See infra note 24.
21 Bates, supra note 14, at 739.
22 Id.
justice courts. Such courts have the authority to deal with class B and C misdemeanors, violations of ordinances, small claims, and infractions committed within their territorial jurisdiction. In practice, the justice court judge presides over cases involving domestic violence, assaults, drug possession, small claims, and traffic law infractions.

The system, however, is not without its controversy. For example, the Salt Lake City justice court system, like all city courts, is given a fiscal year revenue goal. After property taxes, court revenue is often a city’s second largest source of revenue. To meet this anticipated revenue goal, Salt Lake City judges conduct 4100 criminal hearings each month. The anticipated annual case load for the court system in 2009 was 204,500 cases.

Further, the sole requirement for establishing a justice court is that the municipality agrees to fund all costs of court personnel and facilities. The “quid pro quo for this fiscal responsibility” is that the judges and all other court personnel are city employees. As such, they are mandated to comply with all municipal rules, regulations, budgets and personnel ordinances. This reality arguably gives rise to, at the very least, the appearance of a self-serving bias. As one attorney has noted, “in cities conviction rates translate into revenue.”

Notably, as will be discussed further in Part III, many of the reasons for implementation of justice courts are the very reasons why these courts are inappropriate for domestic violence cases.

II. DOMESTIC VIOLENCE: A DIFFERENT KIND OF CRIME

To fully understand domestic violence, it is important to first understand the ways in which this particular crime, and its perpetrators and victims, differ from other crimes typically encountered in the court system as a whole. While it generally occurs behind closed doors, family violence is deeply-engrained in our society. As one sociologist noted, “the fact of wife beating... was once acceptable if it conformed to ‘the rule of thumb’ (no rod thicker than the husband’s thumb

26 Mike Martinez, Utah’s Justice Court System, a Legal Charade, 22 Utah Bar J. 2, 27 (Mar/April, 2009).
27 Id. at 28.
28 Id.
29 Id.
30 Id.
32 Martinez, supra note 26.
33 See Utah Code Ann. § 78A-7-210 (West 2010).
34 Martinez, supra note 26, at 27.
could be used). Today, though, the same fact is morally (and legally) unacceptable.”  

Such traditions may account for why, even in the face of women’s rising political and socio-economic power, domestic violence remains widespread.

This section offers an introduction to the distinctive and nuanced characteristics of domestic violence. It begins with a brief recitation of domestic violence’s staggering prevalence, followed by an explanation of the unique dynamics that facilitate the reoccurrence and perpetuation of this particular type of violence.

A. Statistics and Prevalence

Domestic violence is considered one of the most dangerous situations for a police officer to respond to. It is also the number one source of injury to women in the United States, “causing more injuries than rapes, auto accidents and muggings combined.”

Domestic violence does not discriminate. It affects people regardless of race, age, or income. In fact, approximately one-third of the men counseled for battering are professional men who are well-respected in their jobs and in their communities. They include doctors, physiologists, lawyers, ministers and business executives.

While domestic violence affects all levels of society, studies have shown that the poorer the household, the higher the likelihood of domestic violence. Individuals making less than $25,000 face a risk of domestic violence three times higher than people with higher annual incomes. In fact, women in the lowest income category experience more than six times the rate of nonfatal intimate partner violence than women in the highest income category.

Domestic violence is also chronically underreported. Add to that the fact that those with resources are significantly more likely to report incidents of

37 Kaye & Knipps, *supra* note 11.
40 *Id.*
41 *Intimate Partner Violence*, *supra* note 38.
42 *Id.*
43 *Id.*
violence,\textsuperscript{45} and the actual figures of family violence become both elusive and unsettling.

\textit{B. The Cycles of Violence}

Domestic violence is like a self-fulfilling prophecy. There are essentially two “cycles of violence” that both perpetuate and result from domestic violence. The first and most immediate is the day-to-day cycle practiced by the offender themselves. Domestic violence is rarely an isolated incident, and has instead been recognized as a pattern of behavior aimed at establishing and maintaining power and control over an intimate partner.\textsuperscript{46} This pattern distinguishes domestic violence victims and perpetrators from those of other criminal offenses.

The cycle of violence typical in domestic violence cases involves several stages.\textsuperscript{47} A violent incident is typically preceded by a tension-building stage in which the abuser’s anger builds and communication between the pair breaks down.\textsuperscript{48} Eventually the tension becomes too great and the abuser acts out.\textsuperscript{49} The violence is usually followed by a making-up period, during which the abuser may show regret, apologize, and promise that it will never happen again.\textsuperscript{50} A period of calm usually follows, and the offender may act as though the abuse never happened.\textsuperscript{51} This period often lulls the victim into hoping that the abuse is over.\textsuperscript{52} This cycle is, at best, confusing and terrifying to those involved. At worst, it creates a dangerous rollercoaster which has no easy end. Indeed, unlike other victims of crime, a domestic violence victim faces a greater danger of violence when attempting to leave the situation.\textsuperscript{53} As one domestic violence coordinator noted, “Domestic violence is about power and control, and if the survivor takes steps to leave, or even if she is thinking about it, the batterer picks up on that.”\textsuperscript{54}

The second, overarching cycle—and arguably most detrimental to society at large—is that of intergenerational familial violence. Frequent exposure to violence in the home predisposes children to numerous social and physical problems, and teaches them that violence is a normal way of life.\textsuperscript{55} This ultimately increases their

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\textsuperscript{45} See supra note 7.
\textsuperscript{46} See generally LENORE E. WALKER, THE BATTERED WOMAN (1979).
\textsuperscript{48} Id.
\textsuperscript{49} Id.
\textsuperscript{50} Id.
\textsuperscript{51} Id.
\textsuperscript{52} Id.
\textsuperscript{53} As indicated by the cases of Tina Adovasio and Erlendy Flores, both victims of abuse and residents of Bronx. Patrice O’Shaughnessy, Domestic Abuse a Deadly Tinderbox, N.Y. DAILY NEWS, Mar. 17, 2011, available at 2011 WLNR 5296390.
\textsuperscript{54} Id.
\end{flushleft}
risk of becoming society’s next generation of victims and abusers. It desensitizes them to violence and normalizes it in a way that other children are not subjected to. Studies have shown that between 79 and 81 percent of men who batter had fathers who abused their mothers. Boys who witness domestic violence are twice as likely to abuse their own partners and children when they become adults.

III. FROM BEHIND CLOSED DOORS TO OPEN COURT: INHERENT PROBLEMS WHEN DOMESTIC VIOLENCE CASES HIT THE COURT SYSTEM

The American justice system is built on an adversarial model. The criminal justice system, in particular, thrives in the circumstances for which it was created—namely, offenses by strangers. It is not surprising then that such a system may falter when applied to crimes that occur “in the context of intimate human relationships.” For several reasons, the relationship between the domestic violence perpetrator and victim makes such crimes different from the archetypal offenses against strangers.

First, perpetrators of domestic violence present a particularly high risk for continuing violent behavior. Second, as previously described, this violence typically escalates as the relationship continues or when the victim attempts to leave. Third, blame-shifting is common of domestic offenders during the cycle of violence, in that the abuser may blame the victim for causing the abuse. This blame-shifting often manifests itself in the courtroom as well.

Last, unlike victims of crimes by a random offender, battered women often have compelling complications in their relationship with the offender such as fear, economic dependence or affection. Some may have children with their batterer. These complications can lead to ambivalence about cooperating with the legal process. As legal scholars and domestic violence advocates have noted, “in a

56 Id.
58 MURRAY STRAUSS & RICHARD GELLES, PHYSICAL VIOLENCE IN AMERICAN FAMILIES: RISK FACTORS AND ADAPTATIONS TO VIOLENCE IN 8, 145 FAMILIES 510 (1990).
59 Kaye & Knipps, supra note 11, at 4.
60 Id.
62 O’Shaughnessy, supra note 53.
63 Cycle of Violence, supra note 47.
64 Kaye & Knipps, supra note 11, at 4.
65 Id.
system that generally assumes a victim’s willingness to cooperate, this ambivalence is an anomaly that frequently results in the dismissal of the case.”

For these reasons, domestic violence cases are more volatile, more dangerous, and harder to prosecute than the typical criminal offense.\(^{67}\) In any given court setting or model, the challenging characteristics of these cases raise the risk that traditional methods will fail to properly sanction or deter this type of violence.\(^{68}\) As stated by one legal scholar, “the fragmented nature of the criminal justice system exacerbates this risk.”\(^{69}\) Within the standard court model there may be little communication between all of the various entities that have dealt with the case.\(^{70}\) As a result, the chances are good that some of these problematic cases will slip between the cracks and that the battering will continue.\(^{71}\)

A. Particular Problems in the Justice Court Model

It has been argued that a benefit of the justice court system is the ability to devote more resources to address various social ills, including domestic violence.\(^{72}\) A number of urban justice courts have gone so far as to create specialized domestic violence calendars to track the probation of convicted offenders.\(^{73}\) Proponents of the current system claim that “district courts have neither the time nor the interest to devote such resources—justice courts can and do rather effectively.”\(^{74}\)

However, such arguments are mistakenly premised on two assumptions. First is the notion that domestic violence cases fall under the umbrella of “minor disputes” and “minor violations.” While these are presumably the tasks which the justice courts are particularly adept at handling,\(^{75}\) characterizing acts of domestic violence in such a manner is mistaken and misleading. Indeed, approximately two-thirds of reported domestic violence incidents are classified as “simple assaults,” making them misdemeanors rather than felonies.\(^{76}\) However, up to 50 percent of these “simple assaults” result in physical injuries that are as, or more, serious than 90 percent of all rapes, robberies, and aggravated assaults.\(^{77}\) Simply put, domestic violence offenders are not petty criminals and their offenses are not minor.

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\(^{66}\) Id.
\(^{67}\) Id.
\(^{68}\) Id.
\(^{69}\) Id.
\(^{70}\) Id.
\(^{71}\) Id. at 4–5.
\(^{72}\) Bates, supra note 14, at 769.
\(^{73}\) Id.
\(^{74}\) Id.
\(^{75}\) Id. at 731.
\(^{76}\) SILENT WITNESS NAT’L INITIATIVE, supra note 57 (citing NOW LEGAL DEFENSE FUND).
\(^{77}\) Id.
Second, proponents argue that a class B misdemeanor may seem like a very serious crime to a justice court judge and presumably will be treated as such.78 In contrast, district court judges will treat class B misdemeanors as relatively minor violations, especially when compared to the felonies they frequently see.79

This theory is not only unsupported, but the opposite may just as readily be argued. It is just as likely that a justice court judge dealing with a domestic violence offender in a line of traffic cases will be inclined to impose a fine and minimum sentence in the name of efficiency. Further, while the argument for the availability of judicial resources in justice court has been made, in practice the domestic caseload difference between a justice court and district court judge is negligible.80

IV. FINDING THE BALANCE OF COURTLY POWERS

The legal community both in Utah and on a national level has taken restrained steps towards recognizing the need for enhanced responses to domestic violence. Before an in-depth analysis of possible remedies is presented, some modest action taken by courts and legislature thus far should be mentioned.

A. Evidence of a (Restrained) Emerging Awareness

In 1994, the American Bar Association founded the Commission on Domestic Violence, with a mission to increase access to justice for victims of domestic violence, sexual assault and stalking by mobilizing the legal profession.81 Further, the National Judicial College has offered intensive education on domestic violence, including specialized training on the myths, dynamics and effects of domestic violence, as well as on the court-mandated treatment needs of batterers.82

Express involvement by the legislature is also not uncommon. Specific provisions of statutes indicating legislative intent help to define the proper role of the judiciary in domestic violence cases. For example, one statute states, in part:

It is the intent of the Legislature, with respect to domestic violence cases, that at the first appearance the court shall consider the safety of the victim, the victim’s children, and any other person who may be in danger

78 Id. at 769.
79 Id.
if the defendant is released, and exercise caution in releasing defendants.\textsuperscript{83}

Notably, in the 2008 General Session Utah’s legislature modified the Utah Code of Criminal Procedure to require the reporting of domestic violence statistics by law enforcement officers to the Department of Public Safety.\textsuperscript{84} This was done in an attempt to better inform agencies about the prevalence and dynamics of domestic violence complaints.\textsuperscript{85} The Code now requires that law enforcement officers gather and report information concerning the marital status of the parties involved, the relationship of the suspect to the victim and whether or not an arrest was made in such cases.\textsuperscript{86}

Taking their cue from other areas of the law, legislators in Utah have further recognized the need to break the revolving-door court system. In Utah, as in many states,\textsuperscript{87} the charge of driving under the influence is an “enhanceable offense.”\textsuperscript{88} This means that if a person is convicted of the same or similar crime within a certain time period, the offense may be enhanced from a class B misdemeanor up to a third degree felony.\textsuperscript{89}

Utah’s domestic violence statute has been similarly constructed.\textsuperscript{90} In theory, this provision allows for the most serious cases of repeat offenders to be heard in district court. Thus, by creating an “enhanceable offense” provision within the domestic violence statute, the legislature ensures that by the third offense, the case will be ineligible for justice court.\textsuperscript{91}

\textsuperscript{83} FLA. STAT. § 741.2902 (2010).
\textsuperscript{85} Id.
\textsuperscript{86} Id.
\textsuperscript{87} For example, New York classifies a second DUI conviction within ten years as a class E felony. N.Y. VEH. & TRAF. LAW § 1193(c) (Consol. 2010). Wyoming, among others, also classifies multiple DUI offenses as felonies, but only upon the fourth conviction. WYO. STAT. ANN § 31-5-233(e) (2011).
\textsuperscript{88} See UTAH CODE ANN. § 41-6a-501 (West 2011).
\textsuperscript{89} Id. § 41-6a-503 (West 2011).
\textsuperscript{90} Id. § 77-36-1.1 (West 2011) states, in part:

A person who is convicted of a domestic violence offense is guilty of a felony of the third degree if the domestic violence offense . . . is designated by law as a class A misdemeanor; and the domestic violence offense . . . is committed within five years after the person is convicted of a qualifying domestic violence offense; or the person is convicted of the domestic violence offense . . . within five years after the person is convicted of a qualifying domestic violence offense.

\textsuperscript{91} See supra notes 23 and 24.
This approach makes sense, given the particularly high rates of recidivism with these offenders. In fact, the recidivism rate for crimes of violence between intimate partners is two-and-a-half times that for violence between strangers.\(^92\) Further, both DUI and domestic violence perpetrators pose unique problems when it comes to gathering statistics of actual incidents.\(^93\) For reasons previously discussed,\(^94\) domestic violence is also highly underreported.\(^95\) Thus, just as with drunk driving, risk of exposure to domestic violence is inaccurately represented by actual convictions.\(^96\)

However, this approach does not take into account the unique characteristics of the domestic violence offender. First, the escalation of violence in a given relationship may vary greatly.\(^97\) As an example, Keith Morton had only one prior domestic violence conviction—in justice court—before escalating to the murder of Tonja Nash. Second, the underreporting of these crimes is not entirely comparable. Unlike DUI offenses, domestic violence occurs behind closed doors, deals with highly complex and confusing issues, and more often involves ambivalent victims.\(^98\) Domestic violence, unlike DUI cases, does not concern a lack of self-report but rather a lack of victim reporting. While modern courts and prosecutors may shy away from the paternalistic approach to dealing with these victims, allowing the abuse to continue benefits no one.

Last, the residual effect of violence on children living in those homes is not addressed by the wait-and-see approach inherent in an enhanceable offense provision. By the time the offender is actually arrested after two prior convictions, the child has almost certainly seen far more instances of abuse than the batterer’s record reflects.\(^99\) So while this is a well-intentioned baseline, the statute provision alone does not provide adequate protection for domestic violence victims. Instead, it should be recognized that baseline protection is insufficient, and further action must be taken.

In lieu of the current model, the courts, in conjunction with the legislature, should take appropriate steps to give domestic violence cases the attention and resources needed to fully and adequately address the issue. As will be shown, this

\(^92\) Salzman, \textit{supra} note 61.
\(^93\) Paul R. Marques et al., \textit{Comparative and Joint Prediction of DUI Recidivism from Alcohol Ignition Interlock and Driver Records}, \textit{J. of Studies on Alcohol} (Jan. 1, 2003) (reporting that relying on a DUI charge for statistics, rather than actual drunk driving, “captures less than 1%, possibly less than one tenth of 1%, of those driving while impaired by alcohol”).
\(^94\) \textit{See} discussion \textit{supra} Part III.
\(^95\) \textit{Nat’lCoal. Against Domestic Violence, supra} note 44.
\(^96\) \textit{Id}.
\(^97\) \textit{See} discussion \textit{supra} Part II.
\(^98\) Kaye & Knipps, \textit{supra} note 11, at 4.
\(^99\) In Utah, domestic violence in the presence of a child, while criminalized by its own statute, still constitutes a class B misdemeanor. If more than one child is present when the incident occurs, the offender is charged with one count of the offense for each child present. \textit{Utah Code Ann.} § 76-5-109.1 (West 2011).
may be accomplished through change as modest as requiring the current court systems to devise specific calendars for domestic violence hearings. To alleviate problems caused by informality and conflicting interests, the legislature could easily grant district courts original jurisdiction over domestic violence cases. Lastly, the most sweeping, but perhaps most effective, solution would be the installation of a domestic violence specialty court. The Utah court system, with proper funding from the legislature, could address almost all of the issues presented here through adoption of the specialty court model. Each of these solutions will now be discussed in turn.

B. At Minimum, Domestic Violence Cases in Justice Court Require a Specific Calendar

Many justice courts in Utah have begun scheduling their domestic violence cases on the same day. At the very least, this may help to alleviate some of the concerns of hearing these cases in justice court. The seriousness of the offense may be more readily recognized by both the court and the offender when the case is not lost amongst a sea of traffic violations. This would thus bolster the argument for the justice court system’s treatment of the class B misdemeanor as a serious crime. Further, this calendar may allow for the feel of a specialty court without the cost and commitment of launching such a program. At a minimum, if more intensive measures are not implemented within the court systems, and misdemeanor domestic violence cases are to remain in the justice court system, all justice courts should follow suit and create domestic violence-specific calendars.

However, the domestic violence calendar model does not rectify problems caused by the informality, efficiency, and revenue goals upon which the justice court model is premised. The justice court model itself conflicts with the best interests of domestic violence victims and offenders. Revenue goals may create an improper incentive to impose fines on these offenders in lieu of more intensive treatment and sentencing. Along this same line, the efficiency for which justice courts have been praised is inapplicable, if not inappropriate, for these cases.

In the end, the purpose of the justice courts is to provide a convenient place to take care of minor disputes. Domestic violence is never a “minor dispute.”

C. District Courts Should Possess Original Jurisdiction over Domestic Violence Cases

Giving district courts jurisdiction over domestic violence cases would increase uniformity in sentencing, as well as the perceived seriousness of these

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101 Martinez, supra note 26.
102 See infra Part IV.C.
103 Bates, supra note 14, at 739.
offsends. It would also solve the inherent problems and conflicting interests that arise when hearing the cases in justice court. This jurisdictional solution is not outside the realm of current law. Indeed, such a situation already exists (and is expressly written into statute) in municipalities that have not established a justice court. Thus, it would not be such a stretch to shift to district court jurisdiction statewide.

It is true that such an action might draw revenue away from the justice court system, as misdemeanor domestic violence convictions are subject to fines. In Utah, a court may impose fines of up to $1,000 for a class B misdemeanor conviction and $750 for a class C misdemeanor. While this may add up to revenue for the justice courts and municipalities, the point of prosecuting these offenders is not and must not be financial. These offenses are not speeding tickets or other minor infractions. They are serious assaults on women and children. To argue that a loss of the fines paid by domestic violence offenders should prevent positive, productive changes misses the point entirely. Simply put, ending the cycles of violence at home and in the community must take precedence over revenue goals.

D. The Best of Both Worlds—Installing a Specialty Court System

An easier and more effective solution lies in the adoption of a system of integrated domestic violence “specialty” courts. This may, in practice, look like an amalgamation of justice court and district court—incorporating the best of both systems. Often based off of drug court models, these systems have worked quite well in other jurisdictions. As stated by Judge Judith Kaye, former Chief Justice of New York and a long-time proponent of the problem-solving courts: “In the first two years of the Brooklyn Domestic Violence Court’s operation, dismissal rates declined almost sixty percent.” After installation of the specialty model,

104 Utah Code Ann. § 78A-5-102 (8)(1) states, in pertinent part:
the district court has subject matter jurisdiction in class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if . . . the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed a justice court.

105 Utah Code Ann. § 76-3-301 (West 2011).
106 The revenue concerns for justice courts are likely exacerbated by the Utah Supreme Court’s recent decision in State v. Hernandez. 2011 UT 16, 679 Utah Adv. Rep. 10. The Hernandez Court interpreted Utah Constitution article I, section 13 to require preliminary hearings for all class A misdemeanors because they carry a possible penalty of imprisonment in excess of six months. Id. ¶ 21. Because of this preliminary hearing requirement, class A misdemeanors must now be heard in district court, thereby removing the possible $2,500 in fines for a class A from the justice court system’s income generation calculation. Utah Code Ann. § 76-3-301 (West 2011).
107 Kaye & Knipps, supra note 11, at 9.
probation violation rates of Brooklyn’s domestic violence court defendants dropped to nearly half the previous rate.\textsuperscript{108}

The court’s model was created to enable the court system to address the many legal issues raised in domestic violence cases in a more comprehensive fashion.\textsuperscript{109} Instead of assigning these issues to the separate district courts that would ordinarily hear such matters, the integrated domestic violence court permits a single judge to hear multiple cases involving the same family.\textsuperscript{110} The result is increased efficiency, accountability, and coordination within the justice system’s response to the situation as a whole.\textsuperscript{111}

The model increases defendant accountability, as the domestic violence court can more strictly monitor a defendant’s compliance with court orders.\textsuperscript{112} In Brooklyn, the court requires that those defendants out on bail appear regularly so that the judge may check their status.\textsuperscript{113} Proponents of the system believe that such follow-through “sends a message to defendants that the court takes these cases—and their conduct—seriously.”\textsuperscript{114} Further, because a single judge is able to hear multiple cases involving the same family, they are able to better understand the familial dynamics. The result is less risk of over-sight, blame-shifting, and manipulation of the system.

The model also enables courts to address characteristics specific to each offender. This provides for not only a more thorough sentencing and treatment plan, but may also identify key “markers” to help protect victims from potentially serious escalation.\textsuperscript{115} For instance, certain warning signs or “red flags,” such as strangulation, have been recognized in many cases as an indicator of a possible impending homicide situation.\textsuperscript{116} In a case such as Tonja Nash’s, such information could have proved life-saving.

While perceived as costly, the specialty court model has been shown to decrease recidivism, thereby increasing judicial efficiency. By definition, repeat offenders are a drain on judicial resources. Reduced recidivism further saves the state money by avoiding future imprisonment. While seemingly expensive, treatment through specialty courts costs significantly less than incarceration.\textsuperscript{117}

\textsuperscript{108} Id.
\textsuperscript{109} Steven C. Crane, Dedication to Judith S. Kaye, 70 ALB. L. REV. 807, 811 (2007).
\textsuperscript{110} Id.
\textsuperscript{111} Id.
\textsuperscript{112} Kaye & Knipps, supra note 11, at 7.
\textsuperscript{113} Id.
\textsuperscript{114} Id.
\textsuperscript{116} Id.
Simply put, what a specialty court model requires in upfront costs, it makes up for in effectiveness. When one considers the consequences at stake in domestic violence cases, this solution should be the clear winner.

CONCLUSION

The justice system is a particularly effective model for handling minor disputes in an efficient, informal manner. It is these very same benefits, however, that make justice court an inappropriate forum for domestic violence cases. Modest change, such as requiring justice courts to devise specific calendars for domestic violence hearings, may begin to alleviate some of these issues. A more appropriate step would be to grant district courts original jurisdiction over domestic violence cases. However, as has been demonstrated in other jurisdictions, the most effective, long-term solution to the problems these cases pose to the court system is the installation of a domestic violence specialty court.

Regardless of budgetary concerns, resource limitations, or plain ambivalence or naivety, domestic violence is an issue which must be brought to the forefront of our society. Its sheer prevalence, let alone its tragic and disastrous consequences, warrants thorough examination of the ways these cases are handled by our court system. Even modest changes in the system have the potential to help countless individuals to feel safer, get much-needed treatment, and end the cycles of violence.

Domestic violence is not waning on its own, and the current legal model is too frequently ineffective. Instead, we must actively correct the inherent and conflicting problems caused by the current structure of the judicial system. And it must happen before another mother is murdered.