

Batterer Intervention Programs

County Probation Departments Could Improve Their Compliance With State Law, but Progress in Batterer Accountability Also Depends on the Courts

REPORT NUMBER 2005-130, NOVEMBER 2006

Five county probation departments' responses as of November and December 2007

State law requires an individual who is placed on probation for a crime of domestic violence to complete a 52-week batterer intervention program (program) approved by a county probation department (department). The programs are structured courses designed to stop the use of physical, psychological, or sexual abuse to gain or maintain control over a person such as a spouse or cohabitant. The Joint Legislative Audit Committee requested that the Bureau of State Audits examine the extent to which the various entities involved in batterer intervention—including programs, departments, and courts—hold convicted batterers accountable. Specifically, we were asked to review how the departments and courts responded to a sample of progress reports, allegations, or other information from the programs. We were also asked to determine how well a sample of departments oversee programs.

Finding #1: Many batterers do not complete their required programs, and the extent to which they are held accountable varies.

Based on statistics provided by the departments and our review of a sample of 125 batterers, only about half of the batterers required to complete a program actually do so. In reviewing department responses to violations committed by the 125 batterers, we found that some departments we visited counseled and referred batterers back to programs after they had been terminated for violations, rather than notifying the courts as required by state law. Because only two batterers in our sample ever completed a program after committing three or more violations, we questioned whether this practice only delays the inevitable court-imposed consequences of jail time or probation revocation. Further, some courts notified of violations simply returned batterers to programs without imposing any additional jail time, even though at times the batterer had multiple prior violations. We questioned whether this practice may be sending the unintentional message to batterers that they can avoid the program requirement without any significant penalty for doing so.

Although the most frequent violation involved noncompliance with attendance policies, the departments we reviewed had various policies regarding program attendance, and all were more lenient than statutory provisions, which allow for only three absences for good cause. In discussing their policies, departments cited the need for greater flexibility in attendance policies to allow as many batterers as possible to complete their assigned programs. In addition, the counties of some of the departments we visited have implemented a practice of having batterers make regular appearances to have their progress reviewed by the court. This appears to provide for better batterer accountability and may improve program outcomes.

Audit Highlights . . .

Our review of batterer intervention programs (programs) in California revealed the following:

- » *Only about half of batterers complete a program as required by state law.*
- » *Only two batterers in our sample of 125 ever completed a program after committing three or more violations of their program or probation terms.*
- » *The county probation departments (departments) we visited had various attendance policies, and all were more lenient than statutory provisions, which allow for only three absences for good cause.*
- » *Rather than notifying the courts as required by state law, some departments are counseling and referring batterers back to programs after they have been terminated for violations.*
- » *Courts sometimes do not impose any consequences on batterers, even those with multiple prior violations.*
- » *On-site program reviews required by statute are not being performed consistently.*

We recommended that the departments, in conjunction with the courts and other interested county entities, jointly consider taking the following actions:

- Establish and clearly notify batterers of a set of graduated consequences that specify minimum penalties for violations of program requirements or probation terms. The nature of the violation, as well as the number of previous violations, should be taken into consideration when establishing the consequences.
- As part of these graduated consequences, establish a limit to the number of violations they allow before a batterer's probation is revoked and he or she is sentenced to jail or prison.
- Eliminate the practice of having probation officers counsel and direct batterers back to programs in which they failed to enroll or from which they have been terminated for excessive absences, and establish a consistent practice of notifying the court of such violations, allowing the court to set the consequence for the violations.
- If they have not already done so, implement a practice of regular court appearances in which batterers receive both negative and positive feedback on program compliance.
- Require programs to submit progress reports to the courts at the frequency specified by law.

We also recommended that the Legislature consider revising the attendance provisions included in the law to more closely align with what departments and courts indicate is a more reasonable standard and assess whether probation and the program requirement are an effective deterrent for future acts of domestic violence for individuals who commit acts of domestic violence while in programs or after completing a program.

Butte County Probation Department's Action: Corrective action taken.

After consideration of the report recommendations, the Butte department stated that it believes weekly pre-court and quarterly roundtable discussions among the judge, deputy district attorney, defense counsel, probation officers, and treatment program representatives help develop the consistency of consequences the audit report recommends. The Butte department indicated that its batterers are brought before the court for any failure to abide by the treatment program. Recommendations related to progress reports and regular court appearances were not directed to the department in Butte County because we did not discover any deficiencies related to these areas at this department during the audit.

Los Angeles County Probation Department's Action: Partial corrective action taken.

In its original response to the audit, the department in Los Angeles County, in consultation with the court in the county, indicated that it believes that the recommendation related to graduated consequences interferes with the discretion of individual judges and that regular court appearances would only be necessary for court-supervised probationers, not batterers on formal probation. We have not received any further communications from the county on this matter. Recommendations related to progress reports and court notifications of violations were not directed to the department in Los Angeles County because we did not discover any deficiencies related to these areas at this department during the audit.

Riverside County Probation Department's Action: Corrective action taken.

The Riverside department provided us with an outline of the graduated consequences the court in the county has established to guide its bench officers in their handling of treatment program attendance and enrollment violations for misdemeanor domestic violence cases in the county. Among other things, the outline indicates that on the fourth violation, probation will be terminated and the individual will serve extensive jail time.

The Riverside department explained that, because of an overburdened court system, the court is not able to have regular court appearances for all batterers and expects the probation department to attempt to resolve minor violations before returning the case to the court. Consequently, the department explained that it is in the process of implementing a policy in which probation officers could reinstate batterers into a program after a first-time attendance or enrollment violation but would provide written notification to the court of this action. The court could then choose to set the matter for further hearing if need be. The recommendation related to progress reports was not directed to the department in Riverside County because we did not discover any deficiencies related to this area at this department during the audit.

San Joaquin County Probation Department's Action: Corrective action taken.

The San Joaquin department stated that, although it was not able to obtain consensus from the court on a set of graduated consequences for batterers, it did develop a set of graduated consequences for its probation officers to follow in making recommendations to the court following violations of probation. These consequences include a recommendation that a batterer's probation be terminated, with all remaining jail time imposed, for the fourth violation of probation.

The San Joaquin department stated that it has directed probation officers to refer batterers back to programs only after a violation of probation has been filed with the court and the court has directed the batterer back to the probation department. Due to the limited resources of the court, the department indicated that regular court appearances are not feasible at this time. Additionally, the San Joaquin department stated that the courts have requested that required progress reports from the programs be sent to the department and the department has assumed the responsibility of notifying the court of any required action.

San Mateo County Probation Department's Action: None.

The original and subsequent responses from the San Mateo department did not indicate that it jointly considered the report's recommendations with the court and other interested county entities. Rather, the department responded that to its knowledge the court has not established a set of graduated consequences but that it is confident that all probationers are consistently held accountable for probation violations. The department then added that its current practices related to notifying the court of violations and referring batterers back to programs will continue as they are until they are changed. Recommendations related to progress reports and regular court appearances were not directed to the department in San Mateo County because we did not discover any deficiencies related to these areas at this department during the audit.

Legislative Action: Unknown.

Finding #2: Some courts appear to be inappropriately sentencing batterers to anger management programs that do not last 52 weeks and may not address domestic violence issues.

During the course of our audit, department officials told us, and evidence we found at one county we visited confirmed, that courts were directing individuals placed on probation for crimes of domestic violence to 16-week anger management programs, rather than the required 52-week batterer intervention programs. We also found one instance in Los Angeles County where the court delayed sentencing on an individual it found guilty of battery (the victim met the statutory definition of domestic violence contained in Family Code 6211) until 26 court-ordered program sessions could be completed. Then, after six months of delayed sentencing, it dismissed the charges "in the furtherance of justice."

We recommended that the courts consistently sentence, and the departments consistently direct, individuals granted probation for a crime of domestic violence—when the victim is a person specified in Section 6211 of the Family Code—to a 52-week batterer intervention program approved by the department. Courts should not substitute any other type of program, such as a 16-week anger management program, for a 52-week batterer intervention program.

If it is the Legislature's intent that individuals who commit domestic violence be consistently sentenced to 52 weeks of batterer intervention, it should consider enacting statutory provisions that would not allow the courts to delay sentencing so that batterers can complete a lesser number of program sessions.

Los Angeles County Probation Department's Action: None.

- ➔ In its original and subsequent responses, the department in Los Angeles County provided no specific information from the court on this recommendation.

Riverside County Probation Department's Action: Corrective action taken.

The department in Riverside County indicated that the vast majority of domestic violence defendants are ordered into a 52-week batterer intervention program and that the court has attempted to correct any sentencing variation through training and ongoing communication. Additionally, the department stated that the court established countywide guidelines for sentencing all domestic violence clients, including the 52-week program requirement.

San Joaquin County Probation Department's Action: Partial corrective action taken.

The department in San Joaquin explained that, although it has requested otherwise, the court continues to give the department discretion on the type of treatment program batterers attend. However, the department has provided written guidance to its probation officers that, when making program referrals, they must consider the arresting offense and the nature of the relationship between the offender and the victim, not just the charge to which the batterer was convicted.

Legislative Action: Unknown.

Finding #3: County probation departments could improve their monitoring of programs by more closely adhering to state law and by implementing performance measures.

Although state law requires departments to design and implement a program approval process, we found that none of the five departments we visited had written procedures to guide staff in analyzing and approving applications or application renewals. Additionally, we found that two departments we visited could not provide documentation of their reviews of the applications they had approved in the last five years. However, the applications approved in the last five years that we were able to review generally conformed to statutory requirements.

State law requires the departments to conduct annual on-site reviews of their programs, including monitoring sessions, to determine whether they are adhering to statutory requirements. To ensure that the programs are complying with statutory requirements, the departments would also need to perform on site reviews of program administration, such as the use of sliding fee schedules to assess the program fees batterers pay. However, based on our interviews with staff at all 58 departments and our review of selected programs at five departments, on-site reviews are not performed consistently. For example, the five departments we visited skipped years and programs in their on-site review efforts. Among the examples of programs straying from state requirements, we found one program that used an unqualified facilitator to oversee counseling sessions that were not single gender, as called for by law, and sessions that sometimes consisted only of movies that were not even related to domestic violence.

Further, while some departments have implemented program-monitoring practices beyond those required by law, such as meeting regularly with program directors; implementing performance measures, such as tracking program completion percentages and batterer recidivism, could improve program effectiveness. Another untapped measure of program effectiveness is the systematic collection of feedback from program participants.

We recommended that each department adopt clear, written policies and procedures for approving and renewing the approval of programs, including a description of how department personnel will document reviews of program applications.

We also recommended that each department consistently perform the on-site reviews required by state law. Specifically, a department should annually perform at least one administrative review and at least one program session review for each program. Further, the departments should document their reviews, inform programs of the results in writing, and follow up on areas that require correction.

Finally, we recommended that each department consider developing and using program performance measures, such as program completion and recidivism rates, and developing a mechanism to receive feedback from batterers on program effectiveness.

Butte County Probation Department's Action: Corrective action taken.

The Butte department indicated that, in addition to developing a program application checklist and conducting comprehensive recertification reviews on its two programs, it has begun conducting biannual administrative reviews and quarterly program session visits. Further, the department stated that, although it faces information gaps because some batterers are court-supervised, it attempts to gather relevant statistical information from the programs on enrollments, successes, and program failures. The department commented that it is working on closing the information gaps to provide more relevant measures.

Los Angeles County Probation Department's Action: Corrective action taken.

The Los Angeles department indicated that, although it does not anticipate adding new programs, it has developed a checklist to review a program application should the need arise. In its original response to the audit, the Los Angeles department indicated that it conducts program site visits at least annually, and usually semiannually. These visits are to include sitting in on an actual program session and a review of a random sample of administrative files. The department stated that it considered the feasibility of conducting a customer service evaluation for batterers who complete a program but determined that it did not have the resources to undertake this process. The department also indicated in its original response to the audit that it is developing the means to track recidivism data for batterers on formal probation.

Riverside County Probation Department's Action: Corrective action taken.

The Riverside department indicates that it uses the penal code and a manual developed by the California Institute of Human Resources at Sonoma State University to approve and renew the approval of programs. The department stated that all of its programs now receive at least one administrative review and at least one program session review, as required. Finally, the Riverside department responded that it has considered a number of avenues for collecting relevant program statistics and is currently pursuing statistics from the program on the number of referrals and completions, as well as a client survey upon completion of the program.

San Joaquin County Probation Department's Action: Corrective action taken.

The San Joaquin department has developed written procedures for approving and renewing provider applications. The department indicates that it continues to conduct administrative and program session reviews as required. Finally, the department indicates that it has developed a system that allows program providers to submit information, such as enrollments, attendance, terminations, completions, and quarterly progress reports directly to the department in electronic format. The department stated that, in addition to creating "to do" action items for providers and probation officers, it will also allow the department to track outcome measures by individual provider.

San Mateo County Probation Department's Action: Partial corrective action taken.

To the recommendation regarding written policies and procedures for approving and renewing program applications, the San Mateo department responded, "This is our current practice," without providing any additional information indicating what it has done to correct the deficiencies we found when we visited the department. In regards to on-site program reviews, the department responded that it was not in compliance at the time of the audit but has now installed an annual review process as required. In regards to developing program measures, the department stated there are customer service forms available to all probationers and other members of the public.