

**ANALYSIS OF DOMESTIC VIOLENCE COSTS IN WEST VIRGINIA  
AND THE POTENTIAL COST OF FALSE OR UNNECESSARY CLAIMS**

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# **ANALYSIS OF DOMESTIC VIOLENCE COSTS IN WEST VIRGINIA AND THE POTENTIAL COST OF FALSE OR UNNECESSARY CLAIMS**

## **Overview**

Handling domestic violence cases costs a great deal of money. Government entities around the country (if not the world) expend large dollar amounts for criminal justice personnel, equipment, and facilities to handle such cases. Cook County, Illinois provides an example of the capital facility costs of providing courts to deal with domestic violence:

Fulfilling a promise to deliver a court facility that will provide improved safety and a secure environment for the hearing of domestic violence cases, Cook County Board President John H. Stroger Jr., along with Circuit Court of Cook County Chief Judge Timothy C. Evans, held a grand opening ceremony for the new Circuit Court of Cook County Domestic Violence Courthouse. Renovated at a cost of \$51 million, the Domestic Violence Courthouse replaces the current court facility. (Cook County Information Center, 2005)

Determining the cost of domestic violence cases to West Virginia taxpayers is difficult for many reasons. The costs involved come from many government departments such as social services, courts, law enforcement, and private entities that receive taxpayer money under the umbrella of the West Virginia Coalition Against Domestic Violence (WVCADV). Also, these services are provided by West Virginia state, county, and city governments. Some of the costs are capital costs like costs of buildings to house the services which are difficult to assess. Other than the WVCADV, these government entities also provide services not related to domestic violence cases. Consequently, joint costs must be separated and some costs reasonably allocated to domestic violence cases.

Consequently, I attempted to identify as many direct costs as possible from publicly available documents and calculate reasonable estimates for costs that were not easy to identify. This report includes domestic violence related costs from law enforcement agencies, the court system, public defenders, and the WVCADV. While other substantial costs are probably related to domestic violence (particularly costs associated with the West Virginia Department of Health and Human Resources), I provide no estimate of those costs because I have no basis with which to derive a reasonable estimate. I would welcome any additional information and/or suggestions that would improve my estimates.

The annual cost of items related to domestic violence for which I could obtain a reasonable estimate totaled over \$22.6 million. Depending on the proportion of domestic violence reports considered false or unnecessary, the total cost of these items for false or unnecessary domestic violence cases could be from over \$18.2 million per year to over \$5.6 million per year (assuming a false or unnecessary claims proportion of 80.6 percent and 25 percent, respectively).

## **Identifiable Costs Associated with Domestic Violence Claims**

This section describes the methods used to obtain estimates of costs incurred by taxpayers related to domestic violence claims. Cost accountants and managers frequently disagree about how to attribute or allocate cost to specific services. The specific amount of law-enforcement time, court cases, and direct expenditures related to domestic violence claims was identified. Then, where the cost items were not specific to domestic violence claims or cases, I generally used an average cost allocation method to attribute costs associated with domestic violence. Essentially, the total cost of a service, Family Court, for example, was estimated and domestic violence was assigned the proportion of total costs equal to the proportion of domestic violence cases of total cases. Table 1 provides details of my cost accumulation and assignment/allocation process.

Another approach would be to consider only the “extra” costs associated with providing services related to domestic violence claims. For example, state police and local police departments would still be needed even if no domestic violence claims were filed. However, the civil and criminal justice systems have consistently faced pressure to expand over the last several years. Handling domestic violence cases has contributed to pressure for expansion. For example, the West Virginia Legislature approved legislation to increase the number of Family Court Judges from 35 to 45 in future years. Also, city, county, and state governments frequently must expand courthouses and other government buildings and obtain new equipment. Consequently, identifying the “extra” costs associated with domestic violence would prove nearly impossible.

### **Law Enforcement Costs**

To estimate law enforcement costs associated with domestic violence claims, I obtained the number of hours spent on domestic violence investigations by state police and local law enforcement departments from the report: *Crime in West Virginia 2005, 34th Edition*. This report indicated that for 2005, state police and local law enforcement personnel spent 21,830 and 259,357 hours related to domestic violence investigations, respectively. Based on discussions with police officers, I estimated court time of 4 hours per domestic violence arrest. In 2005, state police made 1,656 domestic violence arrests and local police made 4,877 such arrests. Adding four times the number of arrests to the hours involved in domestic violence investigations produced a total of 28,454 and 278,865 hours related to domestic violence cases by West Virginia State Police troopers and local law enforcement officers, respectively.

Based on publicly available pay scales for state police, I conservatively estimated the average wage of state police involved in investigations at \$20 per hour. Adding 35 percent for fringe benefits (including substantial pension obligations) and payroll taxes produced an estimated \$27 direct cost per trooper hour. I divided the total West Virginia state budget for the state police by the number of sworn officers times 2,080 to derive an estimate of the total cost per hour of sworn officer time. Based on this figure, I conservatively estimated total overhead at \$35 per state trooper hour. The direct cost of \$27 per hour plus \$35 per hour led to a \$62 per state trooper hour cost applied to the 28,454 hours of trooper time to produce an estimated cost of over \$1,760,000 for domestic violence investigations by the state police.

Through Putnamlive.com, I was able to obtain the 2006 salaries of Putnam County Sheriff's Office employees and those of police force members from several small cities in West Virginia. Based on this information and other information, I estimated the average wage per hour for local law enforcement agencies at \$15. Adding 30 percent for fringe benefits and payroll taxes produced an estimated \$19.50 direct cost per local police hour. I obtained the 2006 total police budget and the number of sworn officers for the Huntington and Morgantown Police Departments. Following the procedures outlined for the state police in the previous paragraph, I conservatively estimated \$13.50 of overhead per local police hour for a total hourly cost of \$33.00. For the local police, this rate would not include the capital cost of police stations and headquarters buildings. (I did not use county sheriffs' departments' costs because of the tax collection function that resides with the sheriffs' departments. I assume overhead associated with county law enforcement to be approximately equal to that of the Huntington and Morgantown police departments.) Multiplying \$33.00 per hour times 278,865 local police hours produces an estimated cost of approximately \$9,200,000 for domestic violence investigations by local law enforcement. Consequently, estimated domestic violence-related law enforcement costs in West Virginia totaled nearly \$11 million in 2005. (This total does not include the capital cost of local police stations and headquarters buildings.)

As mentioned previously, arrests are made in many domestic violence cases. If the defendants are unable to obtain release under their own recognizance or under bond, they must remain in jail until the case is evaluated at a hearing. This happens occasionally, but no comprehensive information is available on the frequency of domestic violence defendants being incarcerated while awaiting a hearing. I calculated an average cost of \$61.37 per day for fiscal year 2005-06 for inmates in the West Virginia Department of Corrections. (Information was obtained from *Corrections in West Virginia FY 2005-06 Annual Report*.) Consequently, domestic violence claims may also increase costs due to incarceration of accused people prior to their hearing.

### **Court Costs**

West Virginia currently has 35 Family Court Judges. For Family Court expenditures, I assumed that each Family Court judge required one Family Case Coordinator and one Family Court secretary/clerk. Family Court judges are paid \$82,500 per year. I obtained the names of several Family Case Coordinators and found their salaries in the West Virginia State Auditor's Office state employees' 2006 compensation web site <http://www.wvsao.gov/procpdfs/2006WVGrossCompensation.pdf>. I conservatively estimated the average annual salary of Family Case Coordinators at \$38,000 and the secretary/clerks at \$29,500. Also, I added 30 percent for fringe benefits and payroll taxes to these annual salaries. I also assumed that each Family Court Judge would require a bailiff working for them 4/5 or 80% of a judge's regular working time. I estimated the cost of a bailiff based on the average cost of local police time calculated above. These figures led to estimated Family Court personnel costs of approximately \$8.75 million consisting of: (1) over \$3.75 million for Family Court Judges, (2) over \$3.0 million for Family Case Coordinators, Clerks and Secretaries, and (3) over \$1.9 million for Bailiffs.

Estimating a cost for the office and court space required for judges required making reasonable assumptions. A June 30<sup>th</sup>, 2007 article in the *Register-Herald* noted that three Greenbrier

County Magistrate Court judges in Lewisburg, West Virginia moved into a new 3,000-square-foot office space facility. The article reported that the new office space will cost the county about \$3,500 a month to lease ([http://www.register-herald.com/local/local\\_story\\_181212312.html](http://www.register-herald.com/local/local_story_181212312.html)). Consequently, I estimated office costs for all Family Court and Magistrate Court judges to be \$1,150 per month or \$13,800 per year. Discussions with Court personnel indicated that Family Court Judges required a relatively small courtroom and that Magistrate Court Judges can share court space somewhat. Thus, I assigned 1/2 of the office space cost amount for each Family Court Judge (\$6,900) and 2/3 of this cost (\$9,200) for each Magistrate Court Judge.

For Family Court, adding estimated office and court space costs of nearly \$725,000 [ $35 \times (\$13,800 + \$6,900)$ ] to personnel costs produced a total cost of over \$9.47 million. A Family Court official confirmed to me that domestic violence cases on average require about the same amount of time as other cases. Therefore, I multiplied the total Family Court costs by the proportion of domestic violence cases to total cases in Family Court for 2005--( $15,552 / 39,180$ ). (Information on types of cases was obtained from the *West Virginia Supreme Court Of Appeals 2005 Annual Report*.) This method allocated approximately \$3.76 million to domestic violence cases.

For Magistrate's Court, I obtained the number of judges and the names of some judges and other Magistrate Court employees from state web sites such as: <http://www.wvsos.com/service/rosters/magistrateclerks.htm>. State web sites identified 158 Magistrate Judges and 63 Magistrate Court Clerks. Based on an estimate of two Magistrate employees for every Magistrate Judge, costs were included for 253 Magistrate's Assistants or Deputy Clerks. I then found the 2006 salaries in the West Virginia State Auditor's Office state employees' 2006 compensation web site for several judges and employees to estimate an average annual salary for these positions as follows: Magistrate Judge - \$43,625, Magistrate Court Clerk - \$33,635, and Magistrate's Assistant and Deputy Clerk - \$27,000. To cover fringe benefits and payroll taxes, 30 percent was added to these salaries.

The resulting totals were multiplied by the above mentioned number of Judges and other employees. These procedures produced an estimated cost of approximately \$20.6 million for these Magistrate's Court employees. I assumed that each Magistrate Court Judge required 2/3 of a full-time bailiff time and added nearly \$2.9 million to Magistrate Court costs for bailiffs. Adding estimated office and courts space costs of over \$3.6 million ( $158 \times (\$13,800 + \$9,200)$ ) produced a total cost of over \$27 million for Magistrate's Court. A conversation with a Magistrate Court Clerk indicated that domestic violence cases in the Magistrate Court typically required less time than other cases. Therefore, I assumed that domestic violence cases took one-half of the time of other cases. The total Magistrate Court cost was multiplied by 1/2 and  $15,274 / 362,945$  (the proportion of domestic violence cases to total cases in Magistrate's Court) resulting in slightly over \$500,000 allocated to domestic violence cases. (Information on types of cases was obtained from the *West Virginia Supreme Court of Appeals 2005 Annual Report*.)

Public Defenders are frequently provided for claimants of domestic violence. I obtained information on the cost of these services from the *Family Protection Services Board Annual Report FY 2004*. The 2004 Report indicated that public legal assistance was provided in 1,331

cases and that the average cost per case was \$335. The number of cases in 2005 was estimated by dividing the number of domestic violence investigations performed by police in 2005 divided by the number for 2004, then multiplying by the 1,331 cases assisted in 2004. This produced an estimate of 1,461 cases that received legal assistance in 2005. Using the average cost of \$335 per case produced a total Public Defender cost of approximately \$490,000 for 2005.

The annual Family Court, Magistrate's Court, and Public Defender costs assigned to domestic violence cases totaled over \$4.8 million. For both Court systems, these costs exclude operating supplies and equipment. Also, some Circuit Court and higher Courts' costs also relate to Family and Magistrate Courts and domestic violence as overhead, but were not included in my calculations.

A Family Court Case Coordinator estimated that about ½ of the domestic violence cases addressed in Family Court also have an associated criminal court case. To gain some evidence on criminal cases, information was obtained on Putnam County, West Virginia Magistrates Courts' criminal domestic violence cases initiated in the Prosecutor's office from March 2006 to January 2007. Of the 375 domestic violence cases initiated, 134 cases had been adjudicated. Of those cases, 52 people (39%) pled "guilty" or "no contest" to the charges and were sentenced to probation, jail time, or a fine. Only 14 people (10%) were sentenced to jail time. Eighty-two people (61%) had the charges dismissed or were considered not guilty. Evidently, courts are finding that a large portion of even criminal charges are without merit.

However, I had no basis to estimate costs of criminal cases arising from domestic violence claims; I could find no state-wide data on costs and types of cases handled by County Prosecutors. Consequently, I included no costs associated with domestic violence claims that would be criminally prosecuted. Thus, for various reasons, total court costs associated with domestic violence cases would be substantially more than \$4.8 million.

Family Court Judges that handle domestic violence cases have complained of overworked court personnel and crowded facilities. In response, the state legislature approved the expansion in the number of Family Court Judges from 35 to 45 in future years. My estimated cost per year for personnel and space for one family court judge is over \$270,000. Thus, this court expansion alone could cost the state of West Virginia at least \$2.7 million annually in the future. This expansion may have been unnecessary if not for domestic violence cases.

### **Other Costs**

The West Virginia Coalition Against Domestic Violence (WVCADV) provides educational and promotional efforts related to domestic violence, but most expenditures relate to providing assistance, including emergency shelter, to people reporting domestic violence. Their *Fiscal Year 2005-06 Data Summary* (available at <http://www.wvcadv.org/>) reports total program cost of \$6,878,157. Almost all of these costs would relate to claims of domestic violence. I allocate the full cost of the Coalition because I assumed education and other efforts probably relate to the number of domestic violence claims filed.

State-employed and local government-employed social workers are frequently involved in domestic violence cases including programs such as batterer intervention programs. Personnel costs and overhead incurred by agencies such as the Department of Health and Human Resources related to domestic violence cases could be substantial. In particular, costs of investigations related to allegations of child abuse require substantial resources. Allegations of child abuse are sometimes associated with divorce and child custody disputes.

The Governor's proposed fiscal year 2008 budget for the Division of Human Services totals over \$624 million. Many categories within the budget relate to families and children. However, I could not determine any way to reasonably estimate a proportion or dollar amount of the expenditures that would relate to domestic violence. Also, no costs borne by individuals, such as attorney fees, lost time at work, and extra lodging costs, were included in the analysis. Table 2 includes a listing of items not included in identifiable costs.

Table 1 contains the numbers mentioned above, and presents the total domestic violence costs identified at over \$22.6 million per year. Considering that West Virginia Family Courts handled 15,552 cases of domestic violence in 2005, the identifiable cost to taxpayers from a domestic violence case that reaches Family Court averaged \$1,483.

### **Cost of False or Unnecessary Domestic Violence Claims**

Much literature has discussed false claims of domestic violence in divorce and child custody cases. (See for example, Guerra-Pujol 2006; Bala and Schuman, 2000; Oates et al., 2000; Marshall and Locke 1997; Gardner 1992; and Wexler 1990.) This literature has produced wide-ranging estimates of the proportion of domestic violence claims that are false. I examined evidence specific to West Virginia that might indicate a level of false or unnecessary domestic violence claims.

Examining trends in domestic violence investigations and arrests is difficult because of changes in the definition of domestic violence and crime reporting methods over time. However, Tables 3 and 4 summarize information taken from the West Virginia State Police Annual Crime Reports. Table 3 reports that from 1981 to 1992: domestic violence claims increased 466% from 1,065 to 6,029, investigations increased 565% from 869 to 5,780, and arrests increased 171% from 218 to 590. Thus, from 1981 to 1992, the percentage of claims of domestic violence that led to arrests dropped from 20.5% to 9.8%. Similarly, the percentage of investigations of domestic violence that led to arrests dropped from 25.1% to 10.2%

Table 4 summarizes information from the Annual Crime Reports for 1993 to 2005. Domestic violence reporting standards changed after 1992 to not distinguish between "claims" and "investigations" of domestic violence. After 1998, the definition of "domestic violence or abuse" was expanded to: "Placing another in reasonable apprehension of physical harm; Creating fear of physical harm by harassment, psychological abuse or threatening acts" (WV Code Section 48-27-202). Also after 1998, police reported the type of domestic violence investigated.

Domestic violence investigations and arrests increased steadily from 1993 to 2005. Of particular interest, investigations increased 13.3% from 1999 to 2005 while arrests increased 42.0% during that time. However, the number of domestic violence investigations attributable to aggravated assault and homicide declined 21.0% from 2,163 to 1,709. Consequently, the percentage of investigations related to charges other than aggravated assault and homicide increased from 79.7% to 85.9% from 1999 to 2005. More dramatically, the percentage of arrests related to charges other than aggravated assault and homicide increased from 53.0% to 73.8% from 1999 to 2005. The increased likelihood of arrest associated with domestic violence claims is also evident in the police investigation hours per arrest which dropped from 64.3 to 43 from 1999 to 2005 (reported in Table 4).

Including “reasonable apprehension of physical harm” and “creating fear of physical harm by harassment, psychological abuse..” in the current definition of domestic abuse could be perceived as making false claims of domestic abuse easier than the pre-1999 definition of: “Placing, by physical menace, another in fear of imminent serious bodily injury.” As mentioned above, previous studies of false domestic abuse claims have generated widely different percentage estimates through various research methods. I also consider that whether false, or not, some domestic violence claims may be “unnecessary”. The standard of “reasonable apprehension of physical harm” could lead to domestic violence claims because one party raised their voice when speaking to the other party, or anything that would cause someone engaged in an emotional discussion to feel “reasonable apprehension of physical harm”.

For example, the WVCADV *Fiscal Year 2005-06 Data Summary* reports resident care provided for 815 adults and 706 children and non-resident assistance to 2,595 children and 13,495 adults. Assuming that these numbers refer to different individuals, the total people served was 17,611. Of those, the *Summary* table on the reason for service indicates that over 53.5% of clients cite “emotional abuse” (along with other issues in some cases). According to the *Summary*, only 549 people (3.1%) served by the Coalition required medical attention, and of those, 136 (0.8% of the total served) required a hospital stay. The WVCADV *Summary* also indicates that it was involved with 4,796 protective order petitions in fiscal year 2005-06. Thus, medical attention required by 549 people and 136 admitted to hospitals represent 11.4% and 2.8% of WVCADV domestic violence petitions, respectively. (I cite these percentages with caution because if the percentage of people served who required medical attention becomes an important evaluation factor, domestic violence counselors may encourage people to seek unwarranted medical care.)

No research method exists that can determine a precise measure of “false” or unnecessary domestic violence claims. However, court proceedings involving domestic violence cases provide evidence of the legitimacy of the claims. To derive one percentage estimate of potential false or unnecessary domestic violence claims, I used the WVCADV FY 2005-06 Data Summary table on emergency protective order petitions and case records for Family Court Judges Patricia Keller and Ronald Anderson for calendar year 2006. Approximately 19.5% of emergency protective order petitions included in the WVCADV Data Summary (934 of 4,796) were denied or dismissed. Assuming that these were filed in Magistrate Court, the other 80.5% would then transfer automatically to Family Court.

Data for cases in Family Court was obtained from the organization, **Men and Women against Discrimination**, which provided funding directly to the Cabell County, West Virginia, Circuit Court Clerk’s Office whose employees were familiar with the records. Clerk’s Office employees reviewed 1,316 cases handled in 2006 (results from 1,303 were included in the data analysis because the Family Court did not have jurisdiction over 13 cases initially included). Among other information obtained, the cases were classified by the results of each case in the following categories: Protective Order Issued (POI), Dismissed Failure to Appear (DFA), Dismissed Failure to Show Cause (DFSC), Petitioner Terminated DVP (PTDVP), and Dismissed Other reason (DO). The data on individual cases was certified by the Circuit Clerk and a compilation included in the Appendix and summarized here was prepared by **Men and Women against Discrimination**<sup>1</sup>:

	<u>POI</u>	<u>DFA</u>	<u>DFSC</u>	<u>PTDVP</u>	<u>DO</u>	<u>TOTAL</u>
Total	314	513	119	269	88	1303

Of the 1,303 Family Court cases reviewed, 75.9% were dismissed or denied. The 80.5% EPOs granted (as reported by the WVCADV) would proceed to Family Court where 75.9% of the cases would be dismissed or denied. Thus, another 61.1% (75.9% x 80.5%) of the domestic violence claims would be denied or dismissed. As illustrated below, the initial 19.5% denied or dismissed (as reported by the WVCADV) added to the percentage denied or dismissed in Family Court provides an estimate that perhaps 80.6% of all domestic violence claims are false or unnecessary. Interestingly, approximately the same percentage of cases initiated by men and women were dismissed or denied in Family Court. Because women filed approximately 75 percent of the claims, courts dismiss or deny approximately three times more domestic violence claims filed by women than claims filed by men.

	<u>WVCADV</u>		<u>WVCADV</u>		<u>Cabell</u>		<u>Total</u>
	%Dismissed		%Granted		Family Court		%Dismissed
	<u>or Denied</u>		<u>%Granted</u>		% Dismissed		<u>or Denied</u>
					<u>or Denied</u>		<u>or Denied</u>
* Estimated % false or unnecessary DV claims	19.5%	+	(80.5%	x	75.9%)	=	80.6%

\*Assumes 76% of cases granted EPOs reported by the WVCADV go to Family Court, and Cabell County rulings are typical of Family Courts in West Virginia.

Using denied or dismissed claims as an indication of false or unnecessary domestic violence claims could be criticized because claims denied, and particularly dismissed due to failure to appear or voluntarily terminated, could possibly have been legitimate. Domestic violence literature indicates that perpetrators may intimidate victims into dismissing or terminating protective orders. (See [http://www.wvcadv.org/understand\\_dv.htm](http://www.wvcadv.org/understand_dv.htm), for example.)

<sup>1</sup> Copies of the certified case resolution documents may be obtained from **Men and Women against Discrimination** – contact at [www.mawadwv.org](http://www.mawadwv.org).

Likewise, claims for which protective orders are granted could possibly be false or unnecessary. Domestic violence cases in Magistrate court require a standard of clear and convincing evidence [W.V. Code Section 48-27-403 (a)] for action—a medium standard of evidence. However, the incentive to protect victims of domestic violence could lead Magistrate Court Judges to err on the side of safety in favor of issuing Emergency Protective Orders (EPOs). (Note that over 80% of EPO requests assisted by the WVCADV were approved.) In Family Court, cases are decided based on a preponderance of the evidence [W.V. Code Section 48-27-403 (e)] – the lowest standard of evidence. Consequently, Family Court judges could also easily err on the side of issuing a protective order.

Like claimants, defendants also may not attend the domestic violence protective order court proceeding in many cases related to false or unnecessary claims—attending such court proceedings is not costless, particularly for employed people. Consequently, the number of protective orders issued for false or unnecessary claims could equal or exceed the number of legitimate claims for which protective orders are denied or dismissed.

The estimated identifiable costs of law enforcement, courts, and the WVCADV in West Virginia (\$22,664,338), can be multiplied by the percentage of domestic violence protective orders requested that were dismissed or denied (80.6%) to derive an estimated annual identifiable government spending of \$18,267,456 on false or unnecessary claims. At the bottom of Table 1, this estimate and estimates based on assumptions of other levels of false or unnecessary domestic violence claims are presented. Lower percentage assumptions of 75, 50, and 25 result in identifiable costs related to such claims of \$16,998,253, \$11,332,169, and \$5,666,884, respectively. In respect to any reasonable assumption of a percentage of false or unnecessary domestic violence claims, such claims cost West Virginia taxpayers several million dollars per year for those costs that could be identified for this study. Also, Table 2 provides an extensive list of potential costs not included in these amounts.

### **Discussion of Results and Conclusions**

Tables 3 and 4 show a dramatic increase in the number of investigations (1290%) and arrests (2897%) for domestic violence in West Virginia from 1981 to 2005. West Virginia’s population did not increase much during that time (1.4% from 1990 to 2006, for example, according to the Census Bureau website). Consequently, what was the cause of this dramatic increase is a logical question.

### **Proactive Domestic Violence Laws and Policies**

Some factors are obvious. The Family Violence Prevention and Services Act was enacted in 1984 and reauthorized and amended in the Keeping Children and Families Safe Act of 2003. In 1994, Congress passed the Violence Against Women Act. As previously mentioned, after 1998 the West Virginia statutory definition of “domestic violence” was broadened to include “reasonable apprehension of physical harm” and “creating fear of physical harm by harassment, psychological abuse..”.

In general, over time social services personnel, law enforcement, prosecutors, and courts have taken a more proactive approach to addressing domestic violence. The Program Objectives of the West Virginia University Bachelors in Social Work (BSW) Program reveals the proactive (and potentially biased) training of social workers who may deal with domestic violence. (From West Virginia University Division of Social Work web site, August 2007):

**BSW Program Objectives** (for graduates)

Achieve an understanding of the role of dominant societal institutions in perpetuating the oppression of and discrimination against people who categorically belong to certain groups within society;

Gain knowledge and skill in interventions that promote service and resource systems that are just, effective, and responsive to minority and other oppressed populations;

The West Virginia University Division of Social Work web site also mentions “social justice” as a goal. Such language as “social justice”, “dominant societal institutions...perpetuating the oppression of and discrimination against...certain groups”, and “minority and other oppressed populations” generally includes the viewpoint of men controlling “dominant societal institutions” and of women as an “oppressed group”. Consequently, the education received may lead social workers to push and advocate for domestic violence claims that would not otherwise be pursued. In some cases, women have been threatened with losing custody of their children if they reconcile with, drop criminal charges against, or refuse to testify against, an allegedly abusive estranged husband.

One feminist law professor is disturbed by such views and actions (Gruber 2007).

[D]omestic violence reform systematically denies the autonomy of female victims who are not pro-prosecution. Pro-criminalization domestic violence reformers support mandatory policies that formally strip victims of any control over the destiny of their domestic violence cases. They also criticize restorative-justice and therapeutic-jurisprudence approaches to domestic violence on the ground that they are too easy on abusers. State actors express disdain for victims who refuse to engage in separation-based legal programs.

Gruber (2007) notes that some reformers view domestic violence in the context of only “an ideal battered woman”. Victims that do not wish to prosecute, are characterized as objects of their abusers, psychologically defective, unable to reason, and whose fear of abuse caused them to lose all of their free will. This allows reformers to discount their desires so much that they even oppose reforms that could empower domestic violence victims through mediation. According to Gruber, these reformers view a battered woman as unable to exercise rational choice unless she chooses separation and incarceration. Gruber asserts that these views can lead to victims’ loss of rights by claiming that the woman is in no shape to make her own decisions. This view is problematic because prosecutors are not necessarily motivated to do what is best for the women; prosecutorial goals may be contrary victims' wishes and best interests.

A recent study even concluded that jurisdictions enacting mandatory arrest laws for domestic violence claims experienced increases in domestic homicides after those laws were enforced (Iyengar 2007).

### **Incentives for False Claims**

In divorce and child custody cases, a party generally obtains favorable treatment when the other party has engaged in domestic violence. This outcome is easily understood and justified. However, knowledge of this factor can lead people anticipating divorce and/or child custody proceedings to file claims of domestic violence in situations where such action is unwarranted.

WV Code §48-9-209. *Parenting plan; limiting factors*, specifies factors that can affect a parent's visitation and/or custody rights. Included in these factors is "Has committed domestic violence, as defined in section 27-202" which includes "reasonable apprehension of physical harm" and "creating fear of physical harm by harassment, psychological abuse..". Evidently, one incident under this definition could impact the Parenting plan approved by the Family Court. In contrast, related to filing false or unnecessary domestic violence claims, the parent must have "*repeatedly* made fraudulent reports of domestic violence or child abuse" or "*interfered persistently* with the other parent's access to the child" (italics added).

Obviously, one fraudulent domestic violence report or intentionally denying a parent's legal access to their child one time is not considered significant enough to impact the Parenting plan. Consequently, a parent could benefit greatly by filing one false claim without fear of that action having any negative impact on the Parenting plan. Contrast that with §48-9-209 specifications for anyone found to have committed domestic violence (under the section 27-202 definition); they have "the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent."

Guerra-Pujol (2006) examined data from 1994 to 2003 related to domestic violence claims and other issues for Puerto Rico. Puerto Rico experienced a dramatic increase in the number of domestic violence claims filed during that time and a decrease in the proportion of claims that resulted in the issuance of a protective order (pp. 19-20). According to Guerra-Pujol, Puerto Rico adopted a comprehensive domestic violence law in 1989. He wondered why domestic violence claims did not decline or level off after 1989, hypothesizing that the increase was due to strategic behavior on the part of complainants. He noted that the 1989 Puerto Rico marital violence law prohibited 'mental abuse'—a category that increases the opportunity to strategically file domestic violence complaints (Guerra-Pujol 2006, p. 4). (As previously noted, over 53.5% of WVCADV clients cite "emotional abuse", along with other issues in some cases.)

[I]t is probably not cost-effective to deter or prevent all incidents of domestic violence. In short, because law enforcement is not costless, we must conclude that some accidents, some crimes, some divorces, and so on are tragically unavoidable... The question is at what point is law enforcement no longer cost-justified from a social-cost perspective? (Guerra-Pujol 2006, pp. 11-12)

Additional governmental laws and actions to prevent domestic violence and protect domestic violence victims probably increases the number of false or unnecessary claims filed. In such a situation, only legal deterrents to filing false claims would limit those claims. Apparently, from 1981 to 2005, little or no penalty could be expected for filing false or unnecessary domestic violence claims in Puerto Rico or West Virginia—even in conjunction with divorce or child custody decisions.

### **Other Issues (Potential Costs) Not Addressed**

What could be accomplished if false or unnecessary domestic violence claims were reduced and the money spent elsewhere represents an opportunity cost. Perhaps much better care and assistance could be provided to women and men experiencing actual domestic violence. Also, more social services, law-enforcement, and court resources could be focused, or redirected, on other types of crime or crime prevention programs directed at juveniles. Another possibility would be to assess lower taxes on the people of West Virginia and they could individually choose what to do with their money.

False or unnecessary domestic violence claims may impact divorce rates. Parties accused of domestic violence, probably are less likely to reconcile with the person they perceive as filing a false or unnecessary claim. Also, parties who file such claims may be less likely to reconcile due to pressure from family and loved ones who probably believe the initial claims. As discussed above, social services and prosecutors' office personnel may discourage reconciliation.

Marriage and divorce statistics compiled by the Census Bureau at <http://www.census.gov/prod/2005pubs/06statab/vitstat.pdf> do not necessarily indicate that divorce rates are related specifically to domestic violence claims in the state of West Virginia. Divorce rates have declined in West Virginia and throughout the United States over the last 15 years. However, if the divorce rate is higher than it otherwise would be, additional costs can be substantial. A study of divorces in the state of Utah during 2001 estimated that each divorce costs roughly \$30,000 in state and federal government direct and indirect costs (Schramm 2005, p. 146).

The estimated identifiable costs of law enforcement, courts, and the WVCADV in West Virginia of \$22,664,338, and the 80.6% of denied or dismissed protective orders, produced an estimated \$18,267,456 in identifiable annual government spending on false or unnecessary claims. I could obtain no reasonable estimate for large amounts of social services spending related to domestic violence claims and omitted these costs from the analysis. Also, no costs borne by individuals, such as attorney fees, lost time at work, and extra lodging costs, were included in the analysis.

Perhaps most importantly, the above analysis only addressed recognizable monetary costs of false or unnecessary claims of domestic violence. However, other costs are substantial. What price can be put on the time not shared between a loving parent and child because of a false or unnecessary claim? False or unnecessary claims of domestic violence impart extreme emotional costs on men and women who are subjected to them and to children of the parties involved. Domestic violence definitions now include emotional abuse. Filing false domestic violence

claims should be considered severe emotional abuse of, and domestic violence against, the party falsely accused and any children caught up in the situation.

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**Table 1  
West Virginia  
Annual Domestic Violence Cost Summary**

<u>Law Enforcement</u>	<u>Invest Hrs</u>	<u>Arrests</u>	<u>Arrest x 4</u>	<u>Total hrs</u>	<u>Avg Wage</u>	<u>Fringe+ PR Tax 35%, 30%</u>	<u>Personnel Cost per hr</u>	<u>Overhead per hour</u>	<u>Total Cost</u>
State Police	21,830	1,656	6,624	28,454	\$20.00	\$7.00	\$27.00	\$35.00	\$1,764,148
Total local police-sheriff	259,357	4,877	19,508	278,865	\$15.00	\$4.50	\$19.50	\$13.50	\$9,202,545
Total cost of law enforcement									<u>\$10,966,693</u>
<u>Family Court</u>	<u>Avg Salary</u>	<u>Fringe+ PR Tax</u>	<u>Average annual cost</u>	<u>No. People</u>					<u>Total</u>
Judges	\$82,500	30%	\$107,250	35					\$3,753,750
Family case coordinator	\$38,000	30%	\$49,400	35					\$1,729,000
Secretary clerk	\$29,500	30%	\$38,350	35					\$1,342,250
Bailiff (Est 4/5 per judge, cost of local police with overhead)			\$68,640	28					\$1,921,920
Estimated office space costs	35	\$13,800							\$483,000
Estimated Court space costs	35	\$6,900	*assumed each judge required 1/2 times off. space for court space						<u>\$241,500</u>
					<u>Total Cases</u>	<u>DV Cases</u>	<u>Proportion DV</u>		
					15,552	39,180	0.397	Domestic viol. Costs	\$3,759,559
					<u>\$9,471,420</u>				

Cost per Judge (Including office and Court space) Total cost (\$9,471,420) / 35 = \$270,612

Annual cost of 10 additional judges (perhaps all due to increased domestic violence claims) \$2,706,120

These costs exclude operating supplies and equipment.

Also, excluded are some Circuit Court and higher Courts' costs related to Family Courts and DV directly or as overhead.

**Table 1-Continued**

<u>Magistrate Court A63</u>	<u>Avg Salary</u>	<u>Fringe+ PR Tax</u>	<u>Average annual cost</u>	<u>No. People</u>	<u>Total</u>
Judges	\$43,625	1.3	\$56,713	158	\$8,960,575
Magistrate Court Clerk	\$33,635	1.3	\$43,726	63	\$2,754,707
Magistrate Asst & Dep Clerk	\$27,000	1.3	\$35,100	253	\$8,880,300
Assume 2 officials (clerks, dep clerk., or mag asst) for each judge					
Bailiff (Est 2/3 per judge, cost of local police with overhead)			\$68,640	42	\$2,882,881
Estimated office rental costs	158	\$13,800			\$2,180,400
Estimated Court space costs	158	\$9,200	*assumed each judge required 2/3 times off. space for court space		<u>\$1,453,600</u>
				Assume 1/2 time other cases	<u>\$27,112,463</u>

These costs exclude operating supplies and equipment.

Also, excluded are some Circuit Court and higher Courts' costs related to Magistrate Courts and DV directly or as overhead.

Total Cases	DV Cases	Proportion DV	time other cases	Domestic viol. Costs	
15,274	362,945	0.042	0.5		<u>\$570,494</u>

Total Identifiable Cost of Courts for Domestic Violence Cases

\$4,330,053

(No court costs related to criminal charges for domestic violence are included).

Public Defender

7/1/03-6/30/04 Family Protection Services Board Annual Report FY 2004

	<u>Total Cases</u>	<u>Hrs. Provided</u>	<u>Avg cost per case</u>	<u>FY 2005 Est. Cases</u>	<u>Estimated costs based on 2004 cost per case</u>	
Civil Legal Assistance	1,331	14,275	\$335	1,461	<u>\$489,435</u>	
Estimate FY 2005 cases based on proportion of investigations (FY2005/FY2004)						

Subtotal: identifiable cost for courts, and public defenders \$4,819,488

Subtotal: identifiable cost for law enforcement, courts, and public defenders \$15,786,181

WV Coalition Against Domestic Violence

2005-06 Data Summary

Total Program Cost

\$6,878,157

**Table 1-Continued**

Total identifiable costs: Law enforcement, courts, public defender, and WVCADV	<u>\$22,664,338</u>
If assume 80.9% false or unnecessary claims ---- identifiable Cost per year	<u>\$18,267,456</u>
If assume 75% false or unnecessary claims ---- identifiable Cost per year	<u>\$16,998,253</u>
If assume 50% false or unnecessary claims ---- identifiable Cost per year	<u>\$11,332,169</u>
If assume only 25% false or unnecessary claims ---- identifiable Cost per year	<u>\$5,666,884</u>

**As noted previously, these numbers and calculations are intended to be reasonable estimates of the costs included. Many costs are omitted from the analysis. See Table 2 for a listing of items not included in the analysis.**

**Table 2**  
**Domestic Violence Cost Items Not Included in Analysis**

West Virginia State, County, and City Social Services Costs (excluding organizations in the West Virginia Coalition against Domestic Violence), particularly costs associated with accusations of, and investigations of alleged child abuse

Non-personnel operating costs of Magistrates and Family Courts

The at least \$2.7 million annually in the future related to expansion of West Virginia Family Court from 25 to 35 judges

Amounts of Circuit Court and higher Courts' costs related to Magistrates and Family Courts' domestic violence cases directly or as overhead. (For example, the West Virginia Supreme Court of Appeals collects and reports statistics related to those courts, including domestic violence cases.)

Costs associated with criminal domestic violence cases including costs for: prosecutors and their assistants, Circuit Court judges and their assistants, parole officers, bailiffs, non-personnel operating expenses, capital building and equipment expenses, and incarceration

Cost of batterer intervention programs

Cost of buildings associated with local police and sheriff departments

Costs borne by individuals including: attorney fees, lost time at work, and extra lodging costs

Opportunity cost of other goods and services that could be purchased or consumed by government entities or West Virginia citizens if lower taxes were possible

Costs associated with potentially additional divorces due to false or unnecessary claims

Nonmonetary costs of false domestic violence claims including: loss of time shared between a loving parent and child and emotional costs of falsely charged parties and their children

**Table 3**  
**Domestic Violence Claims, Investigations, and Arrests in West Virginia, 1981-1992**

<u>Year</u>	<u>Claims</u>	<u>Investigations</u>	<u>Arrests</u>	<u>% Claims leading to arrest</u>	<u>% Investigations leading to arrest</u>	<u>Claims % &gt; 1981</u>	<u>Investigations % &gt; 1981</u>	<u>Arrests % &gt; 1981</u>
<b>1992</b>	6,029	5,780	590	9.8%	10.2%	466.1%	565.1%	170.6%
<b>1991</b>	4,625	4,446	562	12.2%	12.6%	334.3%	411.6%	157.8%
<b>1990</b>	3,040	2,869	319	10.5%	11.1%	185.5%	230.2%	46.3%
<b>1989</b>	2,563	2,252	336	13.1%	14.9%	140.7%	159.2%	54.1%
<b>1988</b>	1,505	1,093	192	12.8%	17.6%	41.3%	25.8%	-11.9%
<b>1987</b>	1,341	963	162	12.1%	16.8%	25.9%	10.8%	-25.7%
<b>1986</b>	1,375	1,060	246	17.9%	23.2%	29.1%	22.0%	12.8%
<b>1985</b>	1,316	985	174	13.2%	17.7%	23.6%	13.4%	-20.2%
<b>1984</b>	1,185	839	213	18.0%	25.4%	11.3%	-3.5%	-2.3%
<b>1983</b>	1,232	893	209	17.0%	23.4%	15.7%	2.8%	-4.1%
<b>1982</b>	1,468	1,179	326	22.2%	27.7%	37.8%	35.7%	49.5%
<b>1981</b>	1,065	869	218	20.5%	25.1%	0.00%	0.00%	0.00%

**Table 4**  
**Domestic Violence Investigations, Investigations of Aggravated Assault and Homicide,**  
**and Arrests in West Virginia, 1993-2005**

<u>Year</u>	<u>Investi- gations</u>	<u>Total Police Hours</u>	<u>Arrests</u>	<u>Police Hours per Arrest</u>	<u>Aggravated Assault + Homicide (AA+H)</u>	<u>% Investi- gations leading to arrest</u>	<u>% Investi- gations not AA or H</u>	<u>% Arrests not AA or H</u>	<u>Investi- gations % &gt; 1981</u>	<u>Arrests % &gt; 1981</u>	<u>Investi- gations % &gt; 1999</u>	<u>AA+H % &gt; 1999%</u>	<u>Arrests % &gt; 1999%</u>
2005	12,083	281,187	6,533	43.0	1,709	54.1%	85.9%	73.8%	1290.5%	2896.8%	13.3%	-21.0%	42.0%
2004	11,009	265,236	5,911	44.9	1,733	53.7%	84.3%	70.7%	1166.9%	2611.5%	3.2%	-19.9%	28.5%
2003	9,400	180,390	4,445	40.6	1,484	47.3%	84.2%	66.6%	981.7%	1939.0%	-11.9%	-31.4%	-3.4%
2002	10,749	219,834	4,819	45.6	1,343	44.8%	87.5%	72.1%	1136.9%	2110.6%	0.8%	-37.9%	4.8%
2001	11,488	279,398	5,330	52.4	1,789	46.4%	84.4%	66.4%	1222.0%	2345.0%	7.7%	-17.3%	15.9%
2000	12,208	292,261	5,215	56.0	2,235	42.7%	81.7%	57.1%	1304.8%	2292.2%	14.4%	3.3%	13.4%
1999	10,668	295,680	4,600	64.3	2,163	43.1%	79.7%	53.0%	1127.6%	2010.1%	0.0%	0.0%	0.00%
1998	10,054		3,912			38.9%			1057.0%	1694.5%			
1997	9,662		3,936			40.7%			1011.9%	1705.5%			
1996	9,313		3,467			37.2%			971.7%	1490.4%			
1995	9,267		2,997			32.3%			966.4%	1274.8%			
1994	8,696		1,937			22.3%			900.7%	788.5%			
1993	8,647		1,050			12.1%			895.1%	381.7%			

**APPENDIX**

Resolution of Domestic Violence Cases in the Family Court  
of Cabell County, West Virginia for the Year 2006<sup>1</sup>

	<u>POI</u>	<u>DFA</u>	<u>DFSC</u>	<u>PTDVP</u>	<u>DO</u>	<u>TOTAL</u>
<b><u>F Vs M</u></b>						
Cases	191	368	68	188	50	865
%Cases	22.00%	43.00%	8.00%	22.00%	5.00%	100.00%
K Cases	103	209	26	100	25	463
K%	22%	45%	6%	22%	5%	100%
A Cases	88	159	42	88	25	402
A%	22%	40%	10%	22%	6%	100%
 <b><u>M vs F</u></b>						
Cases	51	77	24	56	28	236
% Cases	22%	33%	10%	24%	12%	100%
K Cases	31	49	7	25	20	132
K %	23%	37%	5%	19%	15%	100%
A Cases	20	28	17	31	8	104
A %	19%	27%	16%	30%	8%	100%
 <b><u>M Vs M</u></b>						
Cases	27	40	13	10	5	95
%Cases	28%	42%	14%	11%	5%	100%
K Cases	15	18	7	7	5	52
K %	29%	35%	13%	13%	10%	100%
A Cases	12	22	6	3	0	43
A %	28%	51%	14%	7%	0%	100%
 <b><u>F Vs F</u></b>						
Cases	45	28	14	15	5	107
%Cases	42%	26%	13%	14%	5%	100%
K Cases	23	16	3	12	4	58
K %	40%	27%	5%	21%	7%	100%
A Cases	22	12	11	3	1	49
A%	45%	25%	22%	5%	2%	100%

F = Female, M=Male, K=Judge Keller, A= Judge Anderson

POI = Protection Order Issued

DFA = Dismissed Failure to Appear

DFSC = Dismissed Failure to Show Cause

PTDVP = Petitioner Terminated Domestic Violence Petition DO = Dismissed Other Reason

<sup>1</sup>Results Tabulated by Men and Women Against Discrimination from Certified Case Results Provided by Adell Chandler, Circuit Clerk, Cabell County, WV.