



**Mayor's Office to
Combat Domestic
Violence**

REMARKS OF

DEPUTY COMMISSIONER/GENERAL COUNSEL ELIZABETH DANK

MAYOR'S OFFICE TO COMBAT DOMESTIC VIOLENCE

BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON COURTS AND

LEGAL SERVICES

"OVERSIGHT: NEW YORK'S INTEGRATED DOMESTIC VIOLENCE
COURTS"

September 18, 2017

Good morning Chairperson Lancman and members of the City Council Committee on Courts and Legal Services. I am Elizabeth Dank, Deputy Commissioner and General Counsel at the Mayor's Office to Combat Domestic Violence (OCDV). I am joined by my colleague at the Mayor's Office of Criminal Justice. Thank you for the opportunity to speak with you today about the City's Integrated Domestic Violence Courts.

The Mayor's Office to Combat Domestic Violence (OCDV) was established in 2001 and oversees the citywide delivery of domestic violence services, creates innovative policies, develops crisis intervention and prevention based programs, and works to increase awareness through broad and diverse outreach efforts throughout New York City. OCDV also operates the City's five Family Justice Centers (FJC's) which provide comprehensive, multi-disciplinary and trauma-informed services for victims of intimate partner violence, sex trafficking and elder abuse in one location. In 2016, the FJC's had over 62,000 client visits across the boroughs and over 10,600 clients were involved in an open criminal case. Many, if not the majority, of those cases would have been pending in the City's Domestic Violence or Integrated Domestic Violence (IDV) courts.

Domestic Violence Courts have dedicated judges that preside over a domestic violence related criminal case from post-arraignment to

disposition. The first Domestic Violence Court in New York State started in Brooklyn in 1996 hearing felony domestic violence related criminal cases. Since then, Domestic Violence Courts for misdemeanor criminal cases have expanded to all 5 boroughs, as well as many other jurisdictions around the State. In addition, the Bronx and Brooklyn both have dedicated domestic violence felony court parts.

IDV Courts are a one judge/one family model where a single judge has the authority to hear domestic violence related criminal, family and matrimonial cases that are related to the same petitioner/complainant and respondent/defendant. A criminal case, as well as another related civil matter, is the threshold to entry to the IDV Court. The IDV Courts are meant to enhance offender accountability, create linkages to services and resources and promote victim safety.

The Family Justice Centers are closely connected to the DV and IDV Courts and court staff, as appropriate, are able to provide referrals for victims to the FJCs and create linkages to resources. In addition, more broadly, we have been working closely with the Office of Court Administration (OCA) to enhance court engagement and responses to domestic violence. Last year, the Mayor launched the New York City Domestic Violence Task Force (DVTF) which was co-chaired by First Lady

Chirlane McCray and Police Commissioner O'Neill and co-led by OCDV and the Mayor's Office of Criminal Justice (MOCJ), who are here with me today. The DVTF held working group meetings over the course of a month to develop 27 recommendations which were funded and released earlier this year.

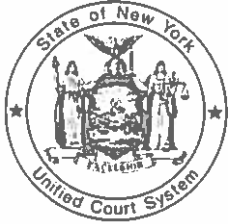
OCA played a significant role in the DVTF. The Honorable Deborah Kaplan, Statewide Coordinating Judge for Family Violence Cases, was a co-chair of one of the working groups that specifically looked at long term violence reduction. In addition, the Task Force convened subcommittees to further explore Family Court and Criminal Court related issues with the Courts and other key stakeholders. Several of the recommendations of the DVTF directly or indirectly impact the court systems and we will be coordinating in varying degrees with the courts for implementation plans. For example:

1. Expanding the Early Victim Engagement (EVE) program to the Bronx and Staten Island will enhance victim engagement at the time of an abusive partner's arraignment to provide critical information about the outcome of the arraignment, including bail and order of protection status, and create strong linkages to services and resources to promote safety.

2. Creating domestic violence programming within the Department of Probation through a pilot program in the Queens Domestic Violence Court will allow the courts, probation, prosecutors and defense attorneys to more effectively utilize probation as a tool in risk assessment, accountability and linkages to trauma-informed services for abusive partners.
3. The City contract for abusive partner intervention programs which are for court mandated criminal justice involved offenders will soon require that the programming be trauma-informed and culturally-specific to ensure that criminal justice involved offenders are attending a program that is using evidence-informed treatment modalities. Programming will also be expanded to include Staten Island.

The DVTF will have ongoing engagement with key stakeholders, including the Courts, to implement the current recommendations and develop durable and effective solutions to domestic violence citywide.

We look forward to continuing to work with the City, the Courts, community partners and the Council on our shared goal of raising awareness about domestic violence and enhancing resources and innovative programs and models throughout New York City. Thank you.



STATE OF NEW YORK
UNIFIED COURT SYSTEM
25 BEAVER STREET
NEW YORK, NEW YORK 10004
(646) 386-5540
FAX (212) 401-9037

LAWRENCE K. MARKS
Chief Administrative Judge

DEBORAH A. KAPLAN
Statewide Coordinating Judge for
Family Violence Cases

Council Member Rory Lancman
250 Broadway Suite 1773
New York, New York 10007

October 17, 2017

Dear Council Member Lancman:

Please consider this letter as supplemental testimony from the Office of Court Administration on the recent hearings that were held on the New York City's Integrated Domestic Violence Courts. I serve as the Statewide Coordinating Judge for Family Violence Cases and in that capacity, I oversee the City's criminal Domestic Violence Courts (DV) and Integrated Domestic Violence Courts (IDV). By way of background, the first felony Domestic Violence Court opened in Brooklyn in 1996 and the first Integrated Domestic Violence Court opened in 2001. There are now 41 DV courts throughout New York's Supreme, Criminal and Justice Courts, 40 IDV courts and 3 Youthful Offender Domestic Violence Courts (YODV). Each borough in New York City has both criminal domestic violence courts and integrated domestic violence courts.

As you heard in the testimony provided by the Hon. Esther Morgenstern, the Kings County Integrated Domestic Violence Court serves as a national mentor court and as a national and international model of adjudication. Our City's Integrated Domestic Violence Courts are unique in providing quality civil legal services to all parties (offenders, non-offending parents and children). Through the IDV courts, one judge presides over all of a family's legal needs relating to family violence, from custody and support, divorce, orders of protection and related criminal matters.

I would also reiterate the need that Judge Morgenstern raised in her testimony concerning the lack of supervised visitation in domestic violence cases. Our office received a recent federal award to support these specialized services in Rochester. Through this grant we will also be convening a statewide group of expert stakeholders to address plans for how New York can better respond to this significant need. We hope that your committee will continue to consider how New York City can enhance these critical services. We welcome the opportunity to work on this with you.

While IDV Courts are immensely important to families with concurrent criminal and civil needs, many of the domestic violence cases in New York City do not involve a combination of family and criminal matters. The large volume of cases heard in our criminal courts demands the same level of scrutiny and attention as cases that appear in an IDV court. Since my appointment as the Statewide Coordinating

Judge for Family Violence Cases, I have focused on working with City partners including the Mayor's Office to Combat Domestic Violence (OCDV) and the Mayor's Office of Criminal Justice (MOCJ) to carefully examine the handling of domestic violence cases in our criminal court system. In 2016, New York City's Criminal DV Courts arraigned 30,643 new domestic violence cases and disposed of 35,387 pending cases. Adjudicating a high volume of complex cases while maintaining practices that align with the core principles of a domestic violence court creates challenges for New York City's Criminal DV Courts.

To focus efforts and resources, my office has devoted technical assistance and resources to Queens County Criminal Court as a pilot court improvement project. Queens Criminal Court serves a diverse urban population that speaks an estimated 160 different languages. According to census data, almost half of the population in Queens speaks a language other than English and close to half of the borough's population is foreign born. And while 15.1% of individuals live below the poverty level, Queens also has the second-highest median household income among New York's five boroughs. The local court in Queens and city stakeholders from OCDV, MOCJ, the Department of Probation, victim advocacy groups, the district attorney's office and defense bar have collaborated on a focused plan that will enhance services in the criminal court. The Queens Enhanced Domestic Violence Court will offer a new vision for handling domestic violence cases in a busy metropolitan setting.

My office has already succeeded in securing significant financial and technical support from citywide agencies and partners for the Queens Enhanced Domestic Violence Court. In November 2016, the mayor of New York City convened a multidisciplinary Domestic Violence Task Force that examined the current effectiveness of criminal justice and social services interventions relating to domestic violence. I co-chaired the task force's working group on strategies for long-term violence reduction and innovative practices for holding offenders accountable. In this role, I strongly advocated for inclusion of the Queens pilot in the mayor's selection of targeted resources with funding for a dedicated domestic violence probation team in Queens. The task force funding includes a commitment to fund probation services in the Queens Enhanced Domestic Violence Court.

Improving the availability and quality of services for offenders and victims is a cornerstone of the probation team's efforts. Offenders in Queens will have access to newly developed batterers intervention programs that redress the underlying trauma experienced by offenders. The model for services that will be offered in the Queens Enhanced DV Court is being formulated through the City's Interagency Working Group on Abusive Partners Interventions. My staff serves as members of the Working Group which will release a Blueprint on Abusive Partners Interventions in October 2017. The Blueprint promises to be a significant step forward in providing New York City DV and IDV courts with criteria and guidelines for court referrals.

Further, victims in the Queens Criminal Court will have access to a representative from Safe Horizons who will be in the courtroom, as well as to additional services offered by the Department of Probation. Probation will have a dedicated staff member in the part each day to screen cases and offer programming for both defendants and complainants. The Family Justice Center also provides a myriad of services including immigration counseling, housing services and referral to shelters. The Queens Enhanced Domestic Violence Court will serve as a model for other criminal courts throughout New York City. It is just one example of how our office has adopted data-driven strategies and outside funding to target cases with the greatest needs.

Just as many domestic violence cases are heard in criminal court, our family courts also preside over many petitions involving requests for orders of protection. Our office continually seeks to increase access to litigants who opt to proceed in this civil venue. In November 2016, Chief Judge Janet DiFiore announced at a press conference the launch of a pioneering initiative to facilitate the electronic filing of temporary orders of protection petitions from remote locations and appearances via videoconference for victims of domestic violence. The project is available to petitioners where traveling to or appearing in court poses an undue hardship or creates a risk of harm to the petitioner. The program adapts the automated New York State Advocate Assisted Family Offense Petition Program that was designed for domestic violence advocates and attorneys to assist litigants from remote locations in completing and filing family offense petitions. The paperless, electronic process (which also includes electronic signatures) facilitates greater access to family courts and allows particularly vulnerable litigants to seek relief that may have been previously infeasible due to lack of transportation, mobility issues, safety concerns or poor health. It also allows for victims to apply for a temporary order of protection from a shelter or other safe location which may be in a county other than where the matter will be heard.

In Manhattan, the Family Justice Center is serving as the hub for agencies conducting remote appearances. This fall the Bronx Family Court will be coming on board. Staten Island will be the next borough to participate. Consistent with our office's efforts to make our courts as accessible as possible to all New Yorkers, we are working closely with OCDV and the Mayor's Office of Immigrant Affairs to increase awareness of the program throughout the City and expand its use. Plans are in development for expansion to all the City boroughs and to universities, private and public hospitals and police precincts.

Orders of protection are central sources of relief in the IDV, DV and family courts. More than 300,000 orders of protection were issued by New York Courts in 2016. I chair a statewide task force which has undertaken to study, examine and consider the numerous practical and legal problems involving these orders. The task force is playing a leadership role in troubleshooting significant issues involving language, notice, surrender of firearms and service of orders. Initiatives where OFVC is helping to assist the court system's management of orders include the courts' implementation of bilingual orders, increased use of web-based entry of data for the New York State Registry and training judicial staff on the best practices and legal issues involved in issuing orders of protection. Of importance in New York City is the Court system's significant project to provide litigants with bilingual orders of protection. Family courts are now able to produce bilingual orders in Spanish, Russian and Chinese. Access to more languages and more courts is an ongoing court effort.

The Office of Court Administration is committed to supporting our IDV and DV Courts through technical support, funding and training. Our training includes federally funded sessions by national speakers. We also provide written resources and materials for judges handling domestic violence cases. In 2017, my office helped produce a significant New York State and federal judicial guide to assist in custody cases involving child abduction and domestic violence. The guide is a new and important resource for state and federal judges and court staff entitled *The Hague Convention on the Civil Aspects of International Child Abduction in Cases Involving Allegations of Domestic Abuse – A New York Bench Guide for Federal and State Court Judges*.

We also maintain information on court resources for internal court staff and the public. Family Court and Matrimonial Court judicial guides to domestic violence risk factors were produced and distributed. Our public education includes a new website with links to the court's family violence resources at <http://www.nycourts.gov/courts/family-violence/index.shtml>. The website provides information on the mission and work of the office and contact information for all DV, IDV and YODV Courts.

Once again, I thank you and your fellow committee members for hearing testimony on the importance of the IDV Courts to New York City's response to domestic violence. These courts empower victims, hold offenders accountable and protect children while promoting due process and procedural justice.

We look forward to working with the committee and providing any further information that may be of assistance to you in your work.

Sincerely,

A handwritten signature in dark ink, appearing to read "Deborah A. Kaplan", with a long horizontal flourish extending to the right.

Hon. Deborah A. Kaplan, J.S.C.

cc: Ben Kallo

Andrew Cohen

Vanessa L. Gibson

Paul Vallone

Barry Grodenchik

Carlos Menchaca



moving victims of violence from crisis to confidence

FOR THE RECORD

Testimony of

**Melissa Paquette, Director, Safe Horizon Domestic Violence Law
Project**

and

**Meredith Lee Price, Supervising Attorney, Safe Horizon Domestic
Violence Law Project**

Safe Horizon, Inc.

Oversight - New York's integrated domestic violence courts

**Courts and Legal Services Committee
Hon. Rory I. Lancman, Chair**

New York City Council

September 18, 2017

Thank you for the opportunity to testify before you today regarding New York City's Integrated Domestic Violence Courts. Our names are Melissa Paquette and Meredith Lee Price, and we are, respectively, the Director and Supervising Attorney of the Domestic Violence Law Project at Safe Horizon. Safe Horizon is the nation's leading victim assistance organization and New York City's largest provider of services to victims of crime. Safe Horizon's mission is to provide support, prevent violence and promote justice for victims of crime and abuse, as well as their families and communities.

Safe Horizon's Domestic Violence Law Project provides direct legal services to low-income victims of intimate partner violence. We employ eight attorneys who practice family and matrimonial law in the Family, Supreme, and Integrated Domestic Violence Courts in all five boroughs.

Our testimony today will focus on the benefits the Integrated Domestic Violence Courts confer on our clients and their families

The Integrated Domestic Violence, or "IDV", Courts were created to ensure effective case resolution for families under a "one family-one judge" model. The IDV courts adjudicate the criminal, family, and matrimonial cases of litigants who have perpetrated or been the victims of intimate partner violence. Prior to the IDV courts, litigants were required to report to multiple courthouses on different dates to litigate their cases before different judges. The family, criminal, and matrimonial judges did not always communicate and would sometimes issue conflicting orders that litigants could not understand how to follow. For example, a complaining witness in a criminal court case may have received an order of protection directing the defendant to stay away from her and her children. This same complaining witness could also request an order of protection in

family court and receive a limited order of protection against the defendant which would allow him to be in contact and in the vicinity of her and the children.

In the IDV parts, one judge hears both the criminal and family court matters and issues consistent orders. The criminal court case also informs the progression of the family court case. For example, if a criminal defendant has been ordered by an IDV judge to enroll in an alcohol treatment program and fails to do so, the IDV judge may consider how an untreated drinking problem will impact the defendant's ability to independently care for children in the related custody case.

In our experience, each borough's IDV court operates slightly differently. For the purposes of this testimony, we will focus on our office's and our clients' experiences in the Kings County IDV where Safe Horizon is routinely assigned family law cases and where the majority of the IDV cases we handle are heard.

Thanks to SAVE funding from the City Council, our office is assigned to intake duty in Kings County IDV twice a month. This means that we work with the court's Resource Coordinator and are assigned to represent new IDV litigants in Custody and Family Offense proceedings. New IDV litigants typically have had their Family Court cases transferred to the IDV following the opening of a criminal case by the District Attorney's office. On days when we are not assigned to intake, other domestic violence legal service providers will be in the IDV to accept assignment on family law cases. In addition to the domestic violence service providers, the court also has defender services such as Legal Aid and Brooklyn Defenders who are cross-trained in criminal and family law and who will be assigned to represent criminal defendants on both their family and criminal court cases.

Perhaps the best way to inform you about our experiences in Kings County IDV is to walk you through one of our typical intake days. On a typical intake day in the IDV, we arrive at the IDV in the morning and speak with the Resource coordinator and receive assignment for new IDV litigants. The Resource Coordinator has already met with new litigants and assessed their needs and eligibility for agency representation. On a typical intake day in IDV, we are assigned anywhere from one to three clients. The Resource Coordinator provides us with all family court petitions pending in the IDV and we then meet our clients for the first time. Usually a small conference room is available for us to conduct a brief intake meeting with each client in which we explain why their custody or family offense cases have been transferred to IDV, what we believe they can expect in the progression of their case, and ask questions to gather relevant information about the client's family, the circumstances that led to the opposing party's arrest, the history of domestic violence between the parties, and what the client would like to gain from litigation going forward. We also ask the client questions about the pending criminal case and how they would like that case to progress. Because the DA's office is also present in the IDV courtroom to prosecute the criminal cases, we have the opportunity to advocate with the DA's office of behalf of our clients.

Ideally we are able to complete these brief interviews with each of our clients before their case is called by the clerk to be heard by the Honorable Judge Esther Morgenstern. In Kings County, the Judge calls the criminal matter first. Our clients are present in the courtroom when the criminal court case is called, which would not be the case in a normal criminal court part. Our client is able to observe the progression of the criminal case and ask the District Attorney any questions she may have after the criminal court appearance has ended. The open communication between the District Attorney's office, the victim, and the victim's advocates results in better

outcomes for our clients and their families on the criminal court case. By way of example – often our clients do not wish to see an abusive partner incarcerated. Incarceration would interrupt financial support by the criminal defendant, negatively impact the defendant’s relationship with the children, and could even result in deportation. Often our clients want the criminal defendant to receive services like batterers intervention or alcohol treatment, and would be satisfied with these programs and an order of protection. Because the IDV Court is a problem-solving court as well as a compliance part, the Court is willing to order treatment programs as opposed to incarceration and will track a defendant’s compliance with those programs, ensuring accountability and safety for our clients and their children.

Following the criminal case, the IDV court will immediately call the Family Court cases. At that time we advocate for our client’s position in regards to Custody and Family Offense proceedings. The Judge has already heard allegations on the criminal case and so has more information than a typical family court judge would to consider before issuing an order of visitation. The IDV Judge, unlike many family court judges, has had extensive training and experience in intimate partner violence and understands violence’s long-term impact on parents and children. This, coupled with knowledge of the criminal case, often results in more thoughtful temporary or final orders than our clients might otherwise receive in family court.

In our experience, the Integrated Domestic Violence Courts truly are problem-solving courts which seek to protect vulnerable parties while also doing what they can for rehabilitation of criminal defendants. We believe our clients are fortunate to have their cases heard in the IDV courts, and we hope the resources and capacity of the IDV courts continue to grow.

On behalf of all of our staff at the Domestic Violence Law Project and across Safe Horizon, we thank you for convening this hearing.



Sanctuary for Families

PO Box 1406
Wall Street Station
New York, NY 10268-1406
Tel. 212.349.6009 Fax 212.349.6810
www.sanctuaryforfamilies.org

Testimony of Sanctuary for Families Before the New York City Council Hearing on the Integrated Domestic Violence Courts September 18, 2017

Good afternoon. My name is Lindsey Wallace, and I am a civil legal attorney with Sanctuary for Families, New York State's largest non-profit organization dedicated exclusively to services and advocacy on behalf of victims of domestic violence and sex trafficking. We are so grateful to the New York City Council and Council Member Lancman for the opportunity to testify at this important hearing on the Integrated Domestic Violence Courts today.

Sanctuary's Center for Battered Women's Legal Services is the largest dedicated provider of legal services of victims of domestic violence in the United States. Last year, the Center's 53 attorneys, with assistance from over 900 pro bono attorneys, served 6,000 domestic violence victims—many of them in family law matters, including cases in the Integrated Domestic Violence Courts in all five boroughs of New York City. Since the inception of the Integrated Domestic Violence Courts (IDVCs) in 2003, our attorneys have observed the positive effects of bringing together family court, matrimonial, and criminal matters concerning the same family before a single judge. Based on the experiences of the victims we serve, the IDVCs play a pivotal role in our court system's response to domestic violence.

The “one family, one judge” model

The underlying principle of the IDVCs—that families in crisis should be able to have all of their interrelated family law, matrimonial, and criminal law matters handled by a single judge—is of critical importance to victims of domestic violence. Although there were initial concerns that this model would confuse litigants, our experience at Sanctuary has been that the consolidated model increases awareness of the criminal proceedings among victims who are complaining witnesses. Before the IDVCs, victims frequently lost touch with the district attorney's offices and did not often understand what was happening in the criminal cases against their abusers. By appearing in the IDVCs, often accompanied by DV legal services attorneys or victim advocates, victims are far more informed about the criminal cases against their abusers and have better contact with the prosecutors handling those cases.

In addition to sparing victims in crisis from the challenges of navigating several different complex court systems, the IDVCs have minimized instances in which they are prejudiced by having inconsistent orders issued by the various courts presiding over their cases. While IDVC court appearances are often more frequent than those in the Family Courts, cases in the IDVCs are also generally concluded sooner than the average Family Court domestic violence matter.

However, the success or failure of the IDVCs hinges upon the caliber of the presiding judge. IDVC judges must have a high level of motivation to make a difference in the lives of families affected by domestic violence. They must possess appropriate judicial temperament to address the emotional responses of litigants in these cases, many of whom have experienced trauma and find the court process triggering. IDVC judges must have a deep, interdisciplinary understanding of the dynamics of domestic violence. They must continue to educate themselves on developments

in the well-established and growing body of research about domestic violence, including the impact on victims, tactics of perpetrators, and assessments of dangerousness and safety for victims and their children. They must be knowledgeable about this complex and evolving area of the law that encompasses multiple practice areas, including criminal, family, and matrimonial law; and their intersections with immigration and housing law.

While we have seen extraordinary judges sitting in New York City's IDVCs, we have also seen some who are not as well-suited to this important task. These vital specialized courts cannot fulfill the functions for which they were created without judges who project a sense of mission to inspire all stakeholders in the system to better address critical issues for the families whose cases are heard there. The behavior of judges shapes the courtroom culture. In the IDVCs, it is crucial that judges model behavior that shows that the court seeks to be responsive to the needs of litigants and their children and treats all litigants with dignity and respect. The court system should undertake an unbiased assessment of how well the judges in each of the IDVCs are embodying these key leadership qualities.

Specialized Training

Judges and court personnel in the IDVCs need to be informed about developments in the field of domestic violence, the interdisciplinary nature of these cases, and the lethality factors that can help predict the risk of a homicide. They should also be educated regarding the effects of trauma on victims of domestic violence and how to minimize the negative impact that their experience in the courthouse can have upon them. Thankfully, IDVC judges attend regular trainings on topics including developments in the applicable law, risk assessment, cultural competency and implicit bias, as well as health and wellness.

Partnerships with Shareholders

The IDVCs were established with a plan for engagement of stakeholders to ensure that they are cooperating as efficiently and effectively as possible. This model works best when the IDVCs partner with stakeholders such as prosecutors, public defenders, attorneys for children, and attorneys representing domestic violence victims. The IDVCs can facilitate greater collaboration and coordination among these groups.

Domestic violence legal services agencies like Sanctuary can more easily identify cases in which victims need representation, because they have attorneys stationed in the IDVCs on a rotating schedule for intake of cases. This system helps connect victims of some of the most serious misdemeanor cases with appropriate criminal justice advocacy, representation in their civil matters, as well as non-legal supportive services. In addition, stakeholders can help train one another as well as court personnel in the dynamics of domestic violence and the effects of trauma upon victims.

Challenges in the IDVCs

While the IDVCs have unquestionably had a positive impact upon the administration of justice in domestic violence cases, there are several challenges that should be addressed in order to help these specialized courts reach their full potential.

1. Logistical Challenges in the Transfer of Cases

Many cases that would benefit from being handled in the IDVCs are not being transferred there, and decisions regarding which cases are transferred sometimes appears arbitrary or ad hoc. A more consistent system for identifying cases that are appropriate for the IDVCs is necessary: advocates frequently need to alert clerks about cases that should be transferred because the court system is not automatically identifying them. Often, it is difficult for attorneys to obtain information about who they should contact to find out whether cases are being transferred to the IDVC. For the many IDVC-eligible cases not being heard in the IDVCs, litigants continue to experience the same problems of inconsistent orders, navigation of multiple courts, lack of awareness of the criminal proceedings, and reduced access to prosecutors that plagued all abuse victims before the establishment of the IDVCs.

The Brooklyn IDVC has been a nationally-recognized model with a large docket in which the various stakeholders work well together. However, the reduction from two IDVC Parts to a single Part this past year has necessarily reduced the number of cases that can benefit from being heard in an IDVC Part. Consequently, cases in which the litigants do not have children have been excluded, causing a whole category of victims of intimate partner violence who were previously being served to lose the benefits of the IDVC.

Some IDVC Parts, particularly those that only operate on a part-time basis, also do not have the capacity to handle repeat cases with the same litigants. Sanctuary has observed that in a majority of domestic violence cases, particularly those involving children, the litigants find themselves returning to court for numerous modification and enforcement actions after initial court matters are concluded. If the IDVCs are not able to hear the new actions filed by abusers to harass their victims or filed by victims as a result of continued abusive behavior and violation of court orders, victims may be retraumatized by having to provide their entire history to a series of new judges.

2. Lack of resources to Support IDVCs

One of the strengths of the IDVCs is their recognition of the need for specialized, integrated services for families experiencing domestic violence. However, many of the critical services IDVC judges wish to order for these families are not available, or there are lengthy waiting lists. Of the most critical importance is the need for institutional providers of supervised visitation. Lack of free or low-cost supervised visitation resources endangers both children and their parents who are victims, as there is pressure to move to unsupervised visitation more rapidly, despite research showing that abusive parents use visitation with children as an opportunity to further victimize and manipulate victims.

One of the important aspects of the IDVCs is defendant monitoring through scheduling regular post-conviction compliance dates. However, lack of information about the available offender accountability programs and lack of empirical evidence into the efficacy of the programs being utilized reduces the value of this element of the IDVC mandate.

3. Safety of Courtrooms and Waiting Areas

Some IDVCs in New York City do not have adequate physical spaces to address the safety needs that are present in domestic violence cases. Sanctuary has observed incidents in more than one borough in which violations of orders of protection occurred just outside the IDVC court buildings,

at least one of which resulted in an arrest. For victims to be able to fully participate in their cases, they need to feel safe and secure coming to the courthouse.

At times, the atmosphere in the IDVCs can be charged with aggressive, potentially volatile energy as many accused domestic violence perpetrators and their victims are packed into a small area in which they are observing one another's cases. In some IDVC parts, victims must testify in front of a courtroom with a hostile, intimidating audience of other accused perpetrators who are often jeering and snickering at them while they are on the witness stand. Victims of domestic violence who have experienced significant trauma may be triggered by such a court environment. While the courtrooms are open to the public, better administration of the court's calendar so there are not high numbers of frustrated litigants waiting for their own cases to be called during trials, as well as provision of more adequate waiting areas outside the courtroom, could alleviate this problem. In addition, the demeanor of presiding judges and court personnel can either contribute to or ameliorate this atmosphere of disrespect.

Generally situated in the criminal courts, IDVCs lack access to childcare centers available to litigants in Family Court. While some boroughs allow IDVC litigants in need of childcare to make use of the childcare services in the nearby Family Court, it can be difficult to go back and forth through security checkpoints to get from the courtroom to the childcare center and back again before a case is heard. In addition, there are safety issues leaving the courthouses when victims have to retrieve children from a separate building after their court appearance is finished, and abusers are able to lurk outside the courthouse to harass or stalk them while they are departing with the children. There are usually no court officers outside the buildings to monitor these encounters.

New York City and State have been pioneers in the creation of the IDVCs, ensuring that the most vulnerable survivors of domestic violence have an integrated forum for handling all of their complex family, matrimonial, and criminal matters. The IDVCs are a truly life-saving resource for thousands of abuse victims each year—and with the modest improvements outlined in this testimony, they can do an even better job of serving the most vulnerable victims of intimate partner violence. Thank you for listening to this testimony—and thank you for your work on behalf of our most vulnerable neighbors.



Fighting for your rights, one person at a time

Stanislao A. Germán, Executive Director
Carolyn P. Wilson, Director

9/18/2017 CITY COUNCIL HEARING

TESTIMONY OF NEW YORK COUNTY DEFENDER SERVICES

The Manhattan Integrated Domestic Violence Part at ten years is in need of evaluation. Having a single court hear cases that involve domestic violence remains a very necessary court innovation. Having counsel and a judge that have knowledge of a family's history is key to promoting better outcomes for families that find themselves enmeshed in the criminal justice system.

However, several issues continue to arise in regards to representing parents in the Integrated Domestic Violence Part. First, the majority of the parents we represent in the IDV Part are employed. They are primarily low-wage earners who often do not have health insurance. Neither do they have flexible work hours or vacation days that they can use to come to court. Consequently, parents often lose their jobs during the course of the litigation. Parents should not have to choose between having a bench warrant issued for their arrest and losing their job. It would be helpful to our parents if the court opened later. That would ensure that parents would not have to miss work or a days' pay in order to come to court. It would also be helpful if the Integrated Domestic Violence Part, like Family Court, had a designated area for childcare. That would greatly assist those parents whose circumstances require them to bring their child to court.

The cost of diversion programs also continues to be a problem. Most batterer's intervention programs, require parents to pay out-of-pocket. Attendance at programs is strictly monitored. Once a parent has been mandated to a program, an inability to pay for a class or counseling session is not considered an adequate excuse for failing to comply. If the program is part of a mandated sentence, the parent is very likely to be found in violation of the program conditions. Even if a program has a cost-sliding scale, the cost may still be prohibitive. This limits the number of diversion programs that parents can actually use. Often, our parents do not have health insurance and thus cannot take advantage of counseling – like substance abuse and mental health counsel – that would otherwise be available through an insurance plan.

Currently child support cases are not heard by the Judge in the Integrated Domestic Violence Part. In Manhattan, the child support case is on the calendar the same day as the IDV case. However, this coordination is not always seamless. Although parents are not in, general, eligible for assigned-counsel, during a child support procedure, there are times when counsel may be assigned (e.g. contempt and willfulness hearings). It has been my experience that many of my clients are not savvy or literate enough to get through child support proceeding without the assistance of counsel.

New York County Defender Services

225 Broadway, Suite 1100, New York, New York 10007
t. 212.803.5100 f.212.571.6035 nycds.org

Housing has increasingly become an issue in the Integrated Domestic Violence Court. Orders of protections can cause extreme hardships to poor families. Working class fathers often cannot afford housing once ousted from their homes pursuant to a temporary order of protection. Since an order of protection does not legally determine a party's right to lease or ownership of an apartment, this causes a great deal of confusion. This is frequently an issue for families with section 8 housing where the ousted party is the primary leaseholder.

This can become an especially acute problem with older couples when one party is more infirm than the other or where their income is so low that finding an apartment or even a room is beyond their meager means. Also increasingly problematic is finding housing for domestic violence victims. While a parent may be entitled to public housing, its availability is very limited and the waiting times are enormous. Even after getting your client to take the difficult initial step of going forward in the case against the batterer, not being able to get them into safe housing quickly often results in victims not following through.

Other issues in the court relate to fundamental fairness. Since prior acts of domestic violence are always relevant in the Integrated Domestic Violence Part, the prosecutor should promptly turn over the hand-written and typed domestic incident reports. Defense counsel should also have access to the family registry so that counsel is aware of the domestic violence history between the parties. The court should also consider taking cases involving other family members, especially if they reside in the same home or are involved in the same incident.

Another continuing problem for the Manhattan Integrated Domestic Violence Part is supervised visitation. It is a very popular request made by families in conflict. There are currently only two agencies in Manhattan that provide services for indigent parents. Currently, New York County Defenders Services does not get funding to pay for such services on behalf of our clients. The availability of funding for these services would allow for more and more flexible hours for visitation and would be a positive game-changer for families with mental impairments, mental health problems, substance abuse disorders, and more serious domestic violence back-grounds. In the same vein the availability of funding for mental health evaluations and forensic evaluations is crucial. In more complex cases, it really is essential that all parties be evaluated so that more informed assessments of the parents' skill level and conduct can be made.

The Integrated Domestic Violence Part is intended as a problem solving part. The majority of the families do not have extensive criminal justice involvement. But as is often the case throughout the criminal justice system, our clients have multiple issues that stem from poverty – substance abuse, low-educational attainment, mental impairment, and physical disabilities. Unlike other populations in the criminal justice arena, however, our parents do have a strong incentive to change – their children. The court must be improved to better assist these people in meeting their goal and thereby benefit society as a whole.

Stephanie Conners
Integrated Domestic Violence Specialist
New York County Defender Services



**BROOKLYN
DEFENDER
SERVICES**

TESTIMONY OF:

Jamie Burke – Supervising Attorney, Integrated Defense Practice

BROOKLYN DEFENDER SERVICES

Presented before

The New York City Council Committee on Courts and Legal Services

Hearing on New York's Integrated Domestic Violence Courts

September 18, 2017

Introduction

My name is Jamie Burke, and I am the supervising attorney for the Integrated Defense Practice (IDP) at Brooklyn Defender Services (BDS). BDS provides innovative, multi-disciplinary, and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for over 30,000 clients in Brooklyn every year. I thank the City Council Committee on Courts and Legal Services and Chair Rory Lancman for the opportunity to testify today about New York's Integrated Domestic Violence (IDV) Courts.

BDS' Integrated Defense Practice (IDP) has handled nearly 1,800 cases in the Integrated Domestic Violence court since the court's formation in 2005. IDP attorneys use their combined expertise in Family Court and Criminal Court proceedings to execute coordinated legal strategies for all aspects of our clients' cases in IDV court.

Implemented by the late Judge Judith S. Kaye, the guiding principle for the IDV court is "one family/one judge." Meaning, one judge hears all aspects of a case involving domestic violence, bringing one family's related Family, Criminal, and Matrimonial cases in front of a single judge. Before the development of the IDV courts, families would often get inconsistent legal rulings across multiple courts. For example, Family Court judges often

issue orders of protection that are inconsistent with those issued in Criminal Court—leading to confusion for the parties and the courts as to which order controls.

Ideally, one judge who oversees all cases in a single court room ensures streamlined court appearances and consistent orders, saving limited court resources. Moreover, the IDV model allows one judge to have more information in front of her, potentially leading to better outcomes for the parties. In New York Criminal or Supreme Court, the sole focus of the case is on whether or not the defendant committed an alleged criminal act. Because the Family Court Act controls, the IDV court may consider what is best for the family. The majority of cases heard in IDV court generally have better outcomes than cases held in the regular DV part because the IDV model gives the court and the attorneys an opportunity to look at the case holistically.

The Integrated Domestic Violence Courts have great potential for innovation in improving outcomes for families in conflict. I have personally seen many successes in the past decade. However, in several ways, this opportunity for innovation is not reaching its full potential and many of my clients and their families suffer unnecessarily as a result.

Problem: Delays and Barriers to Reunification

Although the intent of the IDV court model is to streamline and speed up the court process, court delays and difficult-to-access services are a barrier to family reunification and visits, resulting in long absences from the defendant parent in the life of their child. Just this month, one of my clients is having his first five hour unsupervised visit with his daughter, 13 months after his case started.

In Brooklyn, it can take months for a client to get services or classes because of the waiting lists and costs associated with the programs. In one case of mine, a father sat on Rikers Island for more than a year because of a lack of a mental health program and shelter bed. In that case, the prosecution agreed to consent to release from Rikers during the pendency of the case if we could find a bed and a program. It took us eight months to find one. Many of my clients are ordered to enter programs, such as Batterer's Invention Programs, that, at upwards of \$50 a week for a 26 week program, are simply unaffordable and put them at risk of an order violation that puts them back in jail. Judges and prosecutors insist that these programs are a necessary component of resolving an IDV case, even though there are no studies definitely establishing the efficacy of batterers' education in reducing recidivism.¹

It also takes months for fathers to get supervised visits with their children, and then once approved, the court forces them to pay for the visits. In Family Court Article 10 cases, ACS handles supervised visits, but in IDV court parents must pay a fee to outside agencies for safe supervised visits. For our clients, who are by definition indigent, paying for supervised visits is often outside the scope of their financial means. IDV cases last, on average, up to two years. For many of our clients, that means few, if any, visits with their

¹ See, e.g., Domestic Violence Committee of the Association of the Bar of the City of New York, CHOOSING BETWEEN BATTERERS EDUCATION PROGRAM MODELS: RECOMMENDATIONS TO THE NEW YORK CITY DOMESTIC VIOLENCE CRIMINAL AND FAMILY COURTS (2013), available at <http://www.nycbar.org/pdf/report/BatterersReport%20FinalOct13041.pdf>.

children during the pendency of the case, which has an enormous effect on the parent's relationship with their children.

These delays are harmful to families, costly for our clients, the courts and taxpayers, and do not make our communities safer. Delays frustrate parents and children and further strain relationships. Because of these delays, families are often further away from possible reunification or healthy relationships than they were when they started, the opposite intended result of the IDV model.

Problem: Missed Opportunities for Innovation

The IDV court is a perfect ground for further innovation, yet the court remains resistant to some new ideas.

For example, I have continuously advocated for the court to allow families to enroll in co-parenting or mediation therapy.² In my more than ten years of doing this work, the judge only once allowed my client and his family to participate co-parenting therapy. The therapy was transformational for my client and his family as they navigated parenting their children together, but separately. Unfortunately, in my experience, the IDV judge rarely if ever veers from the current required prescription of batterers' intervention class and a Full Order of Protection during the vast majority of the case. By doing so, they fail to allow more innovative paths to accountability.

Conclusion

Arrests in the city have gone down for drugs and violent crime, but domestic violence remains basically steady. In 2009 the number of domestic violence victims reported in New York City was 25,761. In 2016, there were 35,152 reports citywide.³ In order to reduce the number of people detained on bail, we as a City need to address the underlying factors surrounding family violence. The IDV Courts provide a perfect incubator for the kinds of policy changes that would actually focus on making families stronger. However, as the courts stand now, this simply is not happening as well as it should. We look forward to working with the City Council, Office of Court Administration, Center for Court Innovation, and other stakeholders to look for ways to improve IDV court and move towards more meaningful prevention and treatment of domestic violence.

Questions?

Please feel free to contact me at jburke@bds.org or 718-254-0700 ext. 116.

² See, e.g., Sandra M. Stith, et al. Effectiveness of Couples Treatment for Spouse Abuse, 29 J. Marital & Family Therapy 407-426 (2003).

³ See Division of Criminal Justice Services, *Domestic Violence Data by County: 2009*, Division of Criminal Justice Services, *Domestic Violence Data by County: 2016*. (<http://www.criminaljustice.ny.gov/crimnet/ojsa/domestic-violence-data.html>)

Written Comments of the Bronx Defenders
New York City Council
Hearing of the Committee on Courts and Legal Services
September 18, 2017

Mr. Chairman and members of the Committee, my name is Daniel Kay, and I am a staff attorney at the Bronx Defenders. I am also our office's coordinator for the Integrated Domestic Violence Part, known as "IDV." I am grateful for the opportunity to share our office's experience with the IDV part with you.

The Bronx Defenders provides innovative, holistic, and client-centered criminal defense, family defense, civil legal services, social work support, and advocacy to low-income individuals in the Bronx and New York City. Our staff of nearly 300 advocates represent approximately 30,000 individuals annually and reaches thousands more through outreach programs and community legal education. In the Bronx and beyond, The Bronx Defenders promotes justice in low-income communities by keeping families and communities together.

At first glance, you might think that IDV would be a dream for the Bronx Defenders. Criminal courts are generally ill-equipped to deal with the diverse challenges that domestic violence cases pose for our clients, complainants, parents, and children. Full orders of protection and the threat of incarceration for a parent can only make matters worse for families in crisis. IDV could, therefore, be a real opportunity to for a criminal court to holistically engage with our clients as parents and partners--as members of families--instead of just as criminal defendants.

Instead, IDV can often be a nightmare for our clients. And frequently, the limitations of the criminal justice system itself can undermine the very aims of IDV itself.

As an initial matter, engaging with both the Criminal Court and Family Court services available through IDV costs money. Although the court has discretion to temporarily waive fees, different providers and agencies have different rules that can limit the court's power to do so. There have been times in IDV when prosecutors, opposing counsel or the judge are describing a program and my indigent clients have leaned over to whisper to me: "I want to do that, but how am I going to pay for it?" Batterers' intervention programs can cost hundreds of dollars over the course of several months. Despite the existence of limited fee waivers and "sliding scales," these only go so far and for so long. The affordability of restorative justice should never be a factor where both liberty and the "best interests" of children are at stake. The Council should work to ensure that money is not a barrier to justice in IDV and that all programs are free of charge.

More broadly, however, the inherent limitations of the criminal justice system often undermine meaningful resolutions for everyone involved in a case. The cases and relationships we

see in IDV are complicated, and many, if not most, of the cases involve children. The blunt tools of the criminal justice system--and its focus on prosecution and conviction--are particularly ill-suited to deal with the complex balancing act required to do "justice" for our clients, complainants, and their children. Moreover, the collateral consequences attendant to criminal prosecutions and convictions affect entire families and communities. Missed work, lost jobs, and the threat of deportation of a parent can wreak havoc on children's lives.


When prosecution is the primary tool we bring to bear, we lose sight of these costs. Indeed, in many cases, when zealous prosecutors define success as securing a conviction, the court process often works to disempower all parties. A client may invest time, effort, growth, and expense in court-mandated programs only to have a prosecutor's offer to resolve their criminal matter remain unchanged, undermining a resolution in everyone's interest. In a situation like that, there is no incentive for clients to engage with the services in the Family Court matter until their criminal case goes to trial.

Conversely, certain basic constitutional rights to which clients are entitled in Criminal Court disappear once their case is transferred to IDV. Our clients are not presumed innocent. Instead, they are presumed to be batterers and bad parents. This is not the fault of the judges in IDV. It is the reality of a courtroom where different procedures and expectations apply to the different matters sent there. For example, it is already difficult for a parent criminally charged with endangering their children to feel their innocence is presumed in a typical criminal courtroom. Now imagine when parenting skills classes are "suggested" by the same judge who is deciding their guilt or innocence in the criminal case. This discourages our clients from meaningfully engaging with Family Court services that could prevent recidivism and promote rehabilitation.

We want to challenge the Council to begin thinking outside the box in this very complicated area of life and law. Criminal prosecution need not be the only tool we bring to bear. There are cases now making their way through our criminal courts and IDV that would be better addressed outside of the criminal justice system altogether. The Council can help to lead a paradigm shift by supporting programs in appropriate cases that de-emphasize the dominant role of prosecutors and actually focus on making families stronger.

Without new and creative thinking, IDV will be a failed experiment. Having one's case heard there will be just going to be like any Criminal Court or Family Court, but worse -- worse for our clients, worse for complainants, worse for parents, and worse for children.

Thank you again for the opportunity to appear before you today.


My name is Kathleen Daniel and I am a working, single mother of 2 beautiful children in Brooklyn New York. I am here today because I am also a domestic violence survivor who appeared in IDV II for criminal, family and matrimonial cases that spanned a period of 28 months from 2010 to 2012.

I would like to thank the council for conducting this hearing. Real reform in domestic violence processes and agencies must be trauma-informed and I commend you for providing an opportunity for survivors like myself to be heard.

I ask the council today to change their thinking about domestic violence families and the legal process(es). I challenge you to remove the word finite from your thought process. Many families torn apart by domestic violence are involved in some way with the court system for many years. I personally am still in and out of court and my cases began in 2009 with my ex-husband's first arrest and my subsequent filing for divorce. I am not the exception. I know of other survivors who surpassed my eight years, and were in and out of court for a decade.

Once my family was "released" from the IDV part, I was left with a finite order of protection and no means to enforce any of the documents the judge ordered. As a result, my abuser has not complied with equitable distribution in the matrimonial case, has violated visitation orders, has sued me for custody multiple

times (to no avail), and has not paid child support for several years. In order to enforce these orders, I have to retain council, take days off of work, and face my abuser continually. As a result, I live at the mercy of an abuser who has a right to use the court system to continue to harass me indefinitely.

The cycle of abuse and the process of justice do not end at the banging of the gavel. I urge you to make the following reforms, all of which I volunteer to work tirelessly to help bring to fruition:

1. Families from IDV to be released to a mandated mediation program for a period of 1-2 years to ensure all orders are obeyed. (We cannot disregard the fact that we are dealing with a criminal element or, at the least, one person who bullies or tramples the rights of another.)
2. Establish some integration for DV families outside of criminal court. The abuse I experience psychologically, emotionally, and financially has only escalated once my orders of protection expired and it is very difficult to renew restraining orders outside of violent incidents. (If family court were an airline, my family would have thousands of frequent flyer miles. An officer of the court needs to examine this pattern where abusers are involved to protect survivors and children from re-victimization.) Currently, IDV is the

only point of integration. The only place where we recognize someone is an abuser and someone is a survivor.

I leave you with these questions, in the hopes that you take action:

- a. At what point do we stop protecting children from DV households?
- b. When do we begin looking for signs of abuse in families that appear before a judge? When do we stop?

On the court system website it reads: *IDV Courts respond to a historic problem in the court system, which requires domestic violence victims and their families to appear in different courts before multiple judges, often located in different parts of a county, to address their legal issues. Dedicated to the "one family - one judge" model, IDV Courts allow a single judge to hear multiple case types - criminal, family and matrimonial - **which relate to one family where the underlying issue is domestic violence.***

For far too many, the spectrum of abuse is not finite. I urge you create reforms that build a bridge from the (legal) process to the practical – daily lives of DV families struggling to survive trauma.



Comprehensive Family Services

Forensic & Therapeutic Services

Richard Spitzer, Director

291 Broadway
Suite 808
New York, NY 10007

tel. 212.267.2670
fax. 212.267.2665
www.cfs-nyc.com

September 18, 2017

Good afternoon,

First, I want to thank this Committee for inviting me here today to give testimony and answer any questions you may have about this most important topic.

Please allow me to introduce myself. My name is Richard Spitzer. I am owner and Director of Comprehensive Family Services also known as CFS. I am a licensed clinical social worker. CFS was established in 1998. In the approximate 20 years we have had the privilege of providing Forensic and Therapeutic Services to approximately 11,000 families across New York City. We have about 600 active cases or families at any given time and have maintained that level over the past several years. We provide services in all boroughs and occasionally, Westchester and Long Island.

CFS services families primarily in Family Court, Supreme Court and in IDV Parts. In Family Court we work on neglect and abuse cases as well as C/V/O cases which are Custody, Visitation and Family Offense cases. In Supreme Court we work on Matrimonial cases a.k.a. divorce cases and of course IDV Parts mostly in Manhattan, Brooklyn and the Bronx.

CFS provides an array of forensic and therapeutic services and a large part of our practice involves supervised visitation both Evaluations for Court as well as Therapeutic Visitation cases. We also provide Supervised Exchanges, home studies and home inspections. CFS as a lead provider of these services in NYC sits in a unique position in that we are the only Private Agency providing services to both private paying clients as well as servicing indigent clients who interface with the Court System. We commonly distinguish between the two as public or private cases. We also uniquely work in all of the above mentioned Courts handling essentially the same or similar family issues with perhaps some of the most significant differences being in resources and the rules that impact the quantity of services. In some cases this has the unintended consequence of actually costing more, both in terms of family functioning and in higher financial costs due to recidivism. That is, a family coming back to Court for reasons that in some instances could have been prevented with some front loaded services.



Comprehensive Family Services

Forensic & Therapeutic Services

Richard Spitzer, Director

Before I focus on IDV parts and CFS involvement there, please allow me to point out and respectfully request that this committee consider some time in the near future, looking at many of the same issues discussed here today in Family Court, especially in Family Offense and Custody and Visitation cases. Those families are essentially the same families, facing similar issues as those in IDV Parts. As under resourced as IDV parts may be, there is another constituency in Family Court especially in O-dockets a.k.a. Family Offense Petitions that at best are as under resourced as IDV Parts, if not lacking even more resources. In both instances, private paying clients or families with means and resources get the appropriate services and so it is really the indigent population and these public cases that do not get the quantity or sometimes the consistent quality services they should.

CFS has been involved with IDV courts since their implementation. Since the IDV Parts were established, a few years after CFS opened, CFS has served approximately 750 families primarily from Manhattan, Brooklyn and the Bronx. We are typically appointed by the Court to conduct Evaluations of the parents and family in the context of custody and visitation. This may lead to further services such as Therapeutic visitations, supervised exchanges, facilitating drug and alcohol testing, home inspections and/or individual therapy for a host of issues but the most relevant for this forum is individual therapy for victims of Domestic Violence, both adult and child, and as importantly for perpetrators of domestic violence. Additionally, we provide Parent Education classes.

In the few minutes I have here I want to point out where cuts in resources several years ago, after the financial crises has impacted and constrained the quantity and to some extent quality of services for families in both IDV Parts and C/V/O cases for indigent families. That is, rules that limited how many hours of services experts like CFS are able to provide and that is paid for by the City and/or State. The deleterious impact as CFS sees it across Family Court and IDV Parts in 3 distinct yet overlapping areas all emanating from the same cuts and limitations set by the State and the rather complex funding streams, rules and relationship between the city via the assigned counsel plan and the state via OCA that govern what services can be utilized and paid for in public cases. The 3 areas include,

- 1). Limiting effectiveness and potential of on-going assessments, investigations and evaluations and related therapeutic services as the case may dictate during the pendency of a Proceeding.
- 2). Limiting if not decreasing parent-child time together, pending case disposition.
- 3). Final Orders of Supervised Visitation and other necessary services, post-disposition.

In the case of limiting effectiveness of evaluations, specifically means that if we as evaluators are limited to 3 or 6 one hour visits in an office setting to limit costs does little to predict how well



Comprehensive Family Services

Forensic & Therapeutic Services

Richard Spitzer, Director

the family would do in their own community and by and between themselves without professional supervision or Court oversight. Although this is true for all high conflict families (the only kind CFS seems to service) this is especially true in cases of domestic violence.

What I meant by the 2nd area of concern, limiting or decreasing parent-child interaction and potentially squandering opportunity for the provider to move from the initial evaluation in the office to further investigation, evaluation in the parent's community and home so to help further inform the Court all while the case is pending. The problem is that hours allotted by the state or its contracted agencies is often exhausted prior to the case being resolved leaving parents and children to either not have the frequency and quantity of contact they should, or if they do, lacking in continuity of providers. Furthermore, if all that can occur is one hour per week in a clinical or court setting hampers progress to transition the family back to their homes and their community.

And the third point I mentioned are challenges and limitations for families post disposition as the city and state do not pay for any services once the case is resolved. Simply, what does the Court and families do in situations of Final Orders of Supervised Visitation or other necessary services?

It used to be since 1998 when CFS was first established that Judges were able to Order any one or multiple CFS services that they deemed necessary and appropriate at different stages of the proceedings. Most Judges and Referees took advantage of our intentionally designed continuum of services to be able to service a case from its inception through to its conclusion. They did so by ordering different assessments, investigations or whatever was necessary as needs arose. Said differently, the Judges were the Gatekeepers of how best to utilize the resources. While always required to work within the rules set by the Appellate Division and the Assigned Counsel Plan, simply put, there used to be more flexibility. Since the cutbacks began we are often limited in our service delivery. It is rare that a case can and is resolved in 6 weeks (the average adjournment time between court appearances). So if we exhaust the hours allowed by the first adjournment where do these families go while waiting for case resolution? It used to be in days past that Judges could Order, after the initial evaluation and in between adjournments if appropriate, that CFS inspect the home of the visiting parent and conduct visits (evaluations or therapeutic) there in the parents' homes and communities. They were also able to Order us to supervise exchanges in the community, either between the parents directly or at police precincts or wherever was appropriate. Again, keeping in mind that the goal, barring any severe problems, should be parents having unsupervised access and parenting plan like any healthy divorced family or low conflict family of divorce. So wherefore currently private pay clients who can afford this, CFS can and does routinely supervise day long visits, full weekend visits including even overnights at times, and any related service deemed necessary. Indigent clients however, are relegated only to in office visits with services capped by the number of visits and locations or 20 hours of total evaluation time depending on the rules governing that case, court, and jurisdiction. Therefore, should CFS be successful in transitioning the family quicker than the Court can adjudicate the case leaves CFS, the family and Court in a bind.



Comprehensive Family Services

Forensic & Therapeutic Services

Richard Spitzer, Director

Post Disposition services for indigent families where all services stop due to lack of funding is another stark contrast between private pay clients and public cases. Private pay clients continue to receive services by CFS post disposition where public clients do not.

Although CFS established an intern program a few years ago to help mitigate some of these problems or inequities, and we funded the program out of our own resources, the truth is this is not an effective remedy as many of these cases are beyond the skill and competency of an intern. Moreover, for CFS, this is too costly with no reimbursement or funding to provide post disposition services and quite frankly, what in some instances should have been and could have been provided while the case was pending, save the cutbacks in services previously mentioned.

It is CFS' anecdotal opinion that there is likely a higher rate of recidivism for these public cases as after an evaluation of 3-6 visits in an office does not prepare the family nor provide the Court with enough information to try to predict how the family will do in their own community and on their own. Without some supervised attempts to rule out what works or does not likely places the family at higher risk to return to court which in turn costs the City and State even more money let alone the human emotional toll on parents and children including if not especially for victims of domestic violence.

While as you can see I'm capable of going on for a length of time on these topics but I will stop here out of respect to everyone. My apologies if I ran over my allotted time but I wanted to explain the issues with at least a modicum of detail so that this Committee could understand the specific and some of the nuanced issues involved. Of course I am happy to answer any questions any of you have today or at a later date of your choosing.

Thank you again for the opportunity to be here today in order to address this most important topic.

Respectfully submitted,

Richard Spitzer

Richard Spitzer, LCSW, ACSW
Director, Comprehensive Family Services

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 9/18/17

(PLEASE PRINT)

Name: Jamie Burke

Address: _____

I represent: Brooklyn Defender Services

Address: 117 Livingston St Brooklyn NY 11201

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 9-18-17

(PLEASE PRINT)

Name: Judge Esther E. Modgen

Address: 320 Jay St BKyd 11201

I represent: 10V

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 9/18/2017

(PLEASE PRINT)

Name: DANIEL KAY

Address: 360 E. 161st Street Bronx, NY

I represent: The Bronx Defenders

Address: 360 E. 161st Street Bronx, NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 9/18/2017

(PLEASE PRINT)

Name: Jamie Burke

Address: _____

I represent: Brooklyn Defender Services

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 6574 Res. No. _____

☐ in favor ☐ in opposition

Date: 9/18/17

(PLEASE PRINT)

Name: Stephanie Connors

Address: NYCDS

I represent: NY County Defender Services

Address: 225 Broadway - 11th Floor

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 9-18-17

(PLEASE PRINT)

Name: Lindsey^M Wallace Esq

Address: 30 Wall St 8th floor New York NY 10005

I represent: Sanctuary for Families

Address: Center for Battered Women's
Legal Services

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 9/18/17

(PLEASE PRINT)

Name: ELIZABETH DANK

Address: _____

I represent: MAYOR'S OFFICE TO COMBAT DV

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 9-18-17

(PLEASE PRINT)

Name: Kathleen Daniel

Address: 1578 East 51st Street

I represent: all DV survivors

Address: _____

Please complete this card and return to the Sergeant-at-Arms