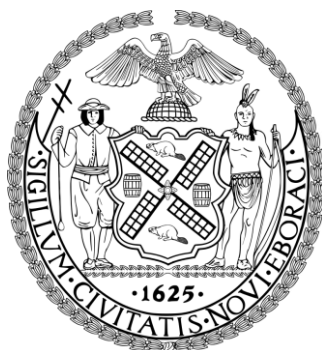


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**COMMITTEE ON THE JUSTICE SYSTEM**

Hon. Rory Lancman, *Chair*

**COMMITTEE ON WOMEN AND GENDER EQUITY**

Hon. Helen K. Rosenthal, *Chair*

November 20, 2019

**Oversight: Efficacy and Efficiency of Batterer Intervention Programs**

## **I. INTRODUCTION**

On November 20, 2019, the Committee on the Justice System, chaired by Council Member Rory Lancman, and the Committee on Women and Gender Equity, chaired by Council Member Helen K. Rosenthal, will hold a joint oversight hearing entitled, Efficacy and Efficiency of Batterer Intervention Programs. Witnesses invited to testify include representatives of the Mayor's Office of Criminal Justice (MOCJ), the Mayor's Office to End Domestic and Gender Based Violence (ENDGBV), District Attorney's Offices, program providers, survivors<sup>1</sup> of domestic violence, local legal service providers, activists, advocacy groups, and experts in the fields of domestic violence, gender-based violence and gender equity, and other interested stakeholders.

## **II. BACKGROUND**

### *Domestic Violence*

Domestic violence, a pattern of offenses committed by and against members of the same family or household and individuals who are or have been in an intimate relationship, where the abuser exerts power and control over the victim,<sup>2</sup> is a crime in the state of New York.<sup>3</sup> Intimate partner violence (IPV), a subset of domestic violence, refers to a pattern of abusive behavior

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<sup>1</sup> With regard to individuals who have experienced domestic violence, this Committee Report utilizes the terms 'survivor' and 'victim' interchangeably to reflect that both are used in the field of domestic violence, and the context with which they are used by the cited source. These terms, however, can take on similar but different meanings. See RAINN, "Key Terms and Phrases" available at <https://www.rainn.org/articles/key-terms-and-phrases>.

<sup>2</sup> Domestic violence is one part of a larger continuum of issues related to gender-based violence, which includes intimate partner violence, family violence, sexual assault, stalking and human trafficking. See NYC Mayor's Office of Criminal Justice & the Mayor's Office to Combat Domestic Violence (now ENDGBV), *NYC Domestic Violence Task Force: 2017 goals and recommendations*, Office of the Mayor (May 2017), 2, available at <https://www1.nyc.gov/assets/ocdv/downloads/pdf/DVTF-2017-Recommendations.pdf>; Mayo Clinic Staff, "Domestic violence against women: recognize patterns, seek help" Mayo Clinic (Oct. 19, 2018), available at <https://www.mayoclinic.org/healthy-lifestyle/adult-health/in-depth/domestic-violence/art-20048397>; New York State Office for the Prevention of Domestic Violence & the Governor's Office of Faith Based Community Development Services, *Domestic Violence and Faith Communities: Guidelines for Leaders* (2016), available at <http://www.opdv.ny.gov/professionals/faith/guidelines.pdf>.

<sup>3</sup> See NYC Mayor's Office of Criminal Justice & the Mayor's Office to Combat Domestic Violence (now ENDGBV), *NYC Domestic Violence Task Force: 2017 goals and recommendations*, Office of the Mayor (May 2017), 2, available at <https://www1.nyc.gov/assets/ocdv/downloads/pdf/DVTF-2017-Recommendations.pdf>.

involving victims and offenders who are married, formerly married, have a child in common, or are involved in an intimate relationship to gain or maintain power and control.<sup>4</sup> Domestic violence and IPV, which includes economic, emotional, physical, and sexual abuse and controlling behaviors, occur in all settings and among all cultural, religious and socioeconomic groups, but primarily affect women, and racial and ethnic minorities.<sup>5</sup>

While there is growing awareness of the impact of domestic violence, it is associated with multiple negative psychological and physical health consequences.<sup>6</sup> This includes posttraumatic stress disorder, depression, physical injury, reproductive health problems, irritable bowel syndrome, and chronic pain.<sup>7</sup> Studies have revealed an association between IPV against women and negative health and social consequences for children, including anxiety, depression, poor academic performance and poor health.<sup>8</sup>

The harm children suffer from experiencing domestic violence can be physical, emotional, behavioral, cognitive, and social, and effects are usually overlapping and interrelated.<sup>9</sup> In some cases, domestic violence in childhood leads to emotional problems that are manifested in disruption of schooling including non-attendance, attention and concentration difficulties, sleep disturbance, withdrawal, insecurity, guilt, depression and low self-esteem; physical effects may include injury,

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<sup>4</sup> New York County District Attorney, *DOMESTIC VIOLENCE INITIATIVE: Recommendations to Combat Domestic Violence in New York City*, (Oct. 2016), 13-16, available at [https://www.manhattanda.org/wp-content/themes/dany/files/Domestic%20Violence%20Initiative%20Report%20October%202016\\_0.pdf](https://www.manhattanda.org/wp-content/themes/dany/files/Domestic%20Violence%20Initiative%20Report%20October%202016_0.pdf).

<sup>5</sup> *Id.*; See also World Health Organization, “Understanding and addressing violence against women” (2012), available at [http://apps.who.int/iris/bitstream/handle/10665/77432/WHO\\_RHR\\_12.36\\_eng.pdf?sequence=1](http://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf?sequence=1).

<sup>6</sup> Lloyd, Michele. “Domestic Violence and Education: Examining the Impact of Domestic Violence on Young Children, Children, and Young People and the Potential Role of Schools.” *Frontiers in psychology* vol. 9 2094 (Nov. 13, 2018), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6243007/>.

<sup>7</sup> *Id.*

<sup>8</sup> D.J. Whitaker, et al. “Differences in frequency of violence and reported injury between relationships with reciprocal and nonreciprocal intimate partner violence.” *American journal of public health* vol. 97,5 (May 2007), 941-7, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1854883/>.

<sup>9</sup> Lloyd, Michele. “Domestic Violence and Education: Examining the Impact of Domestic Violence on Young Children, Children, and Young People and the Potential Role of Schools.” *Frontiers in psychology* vol. 9 2094 (Nov. 13, 2018), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6243007/>.

eating problems, and stress-related conditions such as asthma and bronchitis; and behaviorally, changes in conduct, unpredictable behavior, aggression, anger, and hyperactivity, as well as being the perpetrator or victim of bullying.<sup>10</sup> In older children, the impact is most pronounced along gender lines and includes self-blame, depression, self-harm, suicidal ideation, substance abuse, risk-taking behavior, criminal behavior, poor social networks, disaffection with education and eating disorders.<sup>11</sup>

Additionally, evidence indicates that early exposure to IPV is a leading factor associated with male perpetration and female experience of IPV later in life, as well as an association between IPV and child abuse within the same household.<sup>12</sup> Moreover, studies have found that 40 to 70 percent of female murder victims were killed by their husband or boyfriend, often in the context of an abusive relationship, while evidence also suggests that IPV increases the risk of a woman committing suicide.<sup>13</sup>

Nationally, according to the United States (U.S.) Centers for Disease Control and Prevention (CDC)'s 2017 National Intimate Partner and Sexual Violence Survey (NISVS), an average of 37.3 percent of women and an average of 30.9 percent of men experienced intimate partner contact sexual violence, physical violence, and/or stalking during their lifetime.<sup>14</sup> The NISVS also reported that an average of 27.4 percent of women and an average of 11 percent of men have experienced contact sexual violence, physical violence, and/or stalking by an intimate

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<sup>10</sup> Lloyd, Michele. "Domestic Violence and Education: Examining the Impact of Domestic Violence on Young Children, Children, and Young People and the Potential Role of Schools." *Frontiers in psychology* vol. 9 2094 (Nov. 13, 2018), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6243007/>.

<sup>11</sup> *Id.*

<sup>12</sup> World Health Organization, "Understanding and addressing violence against women" (2012), 7, available at [http://apps.who.int/iris/bitstream/handle/10665/77432/WHO\\_RHR\\_12.36\\_eng.pdf?sequence=1](http://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf?sequence=1).

<sup>13</sup> *Id.*

<sup>14</sup> S.G. Smith, et al., *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010-2012 State Report*, National Center for Injury Prevention and Control & Centers for Disease Control and Prevention (Apr. 2017), 1-3, available at <https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf>.

partner in their lifetime and experienced an IPV-related impact, such as injury, fear, concern for safety, or needing services.<sup>15</sup> Among racial/ethnic groups in the U.S., 56.6 percent of multiracial women, 47.5 percent of American Indian/Alaska Native women, 45.1 percent of non-Hispanic Black women, 37.3 percent of non-Hispanic white women, 34.4 percent of Hispanic women, and 18.3 percent of Asian-Pacific Islander women experienced contact sexual violence, physical violence, and/or stalking by an intimate partner in their lifetime.<sup>16</sup>

In 2003, the CDC estimated that the economic costs of IPV to be \$5.8 billion annually, which includes nearly \$4.1 billion for direct medical and mental health care services and nearly \$0.9 billion in lost productivity from paid work and household chores for victims of nonfatal IPV and \$0.9 billion in lifetime earnings lost by victims of IPV homicide.<sup>17</sup> However, economists suggest that the cost could be substantially higher than previous studies have indicated. One 2010 study calculated that the total cost to the U.S. could be about \$460 billion.<sup>18</sup>

Domestic violence, and IPV in particular, has traditionally been examined through a framework that is based on male-perpetuated violence against women.<sup>19</sup> Such offenses, which are rooted in power and control, can be linked to assertion of male privilege and are likely related to gender inequities.<sup>20</sup> Related data therefore almost always implicitly refers to the experiences of heterosexual cisgender women, at the exclusion of transgender and gender nonconforming

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> McCollister, Kathryn E. et al. "The cost of crime to society: new crime-specific estimates for policy and program evaluation." *Drug and alcohol dependence* vol. 108,1-2 (2010): 98-109, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2835847/>.

<sup>19</sup> D.J. Whitaker, et al. "Differences in frequency of violence and reported injury between relationships with reciprocal and nonreciprocal intimate partner violence." *American journal of public health* vol. 97,5 (May 2007), 941-7, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1854883/>.

<sup>20</sup> *Id.*

populations.<sup>21</sup> Moreover, while there is limited data on domestic violence in the lesbian, gay, bisexual, transgender and queer or questioning (LGBTQ+) population, the CDC found that it occurs in LGBTQ+ relationships at similar or higher rates than in the general population.<sup>22</sup>

According to research published by Northeastern University, after almost four decades of decline, IPV homicide has increased in the United States each year between 2014 and 2017.<sup>23</sup> In 2014, 1,875 people were killed by a partner, the majority of whom were women; in 2015, the death toll rose to 2,096; in 2016, it increased to 2,149; and in 2017, there were 2,237 IPV homicides.<sup>24</sup> Research indicates that four women a day are killed by an intimate partner.<sup>25</sup> Similarly, while overall crime rates have fallen in New York City (NYC) over the past decade, the number of domestic violence homicides has remained steady and domestic violence has assumed a larger percentage of overall crime.<sup>26</sup> According to its website, the New York Police Department (NYPD) responds to approximately 230,000 domestic incidents annually, or about 600 calls a day.<sup>27</sup> However, in 2018, the NYPD responded to 250,447 domestic incident reports in 2018 alone, or about eight percent over the annual average.<sup>28</sup> Additional statistics indicate a rise in intimate

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<sup>21</sup> Andrea L. Wirtz, et al., *Gender-Based Violence Against Transgender People in the United States: A Call for Research and Programming*, Trauma, Violence, & Abuse (Feb. 2018), available at <http://journals.sagepub.com/doi/10.1177/1524838018757749>.

<sup>22</sup> M.L. Walters, et al., *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Findings on Victimization by Sexual Orientation*, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (Jan. 2013), 10, available at [https://www.cdc.gov/violenceprevention/pdf/nisvs\\_sofindings.pdf](https://www.cdc.gov/violenceprevention/pdf/nisvs_sofindings.pdf).

<sup>23</sup> J.A. Fox et al., *Gender Differences in Patterns and Trends in U.S. Homicide, 1976–2017*, Violence and Gender Vol. 6, No. 1, available at <https://www.liebertpub.com/doi/full/10.1089/vio.2019.0005>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> NYC Mayor's Office to End Domestic and Gender-Based Violence, *NYC Domestic Violence Task Force: 2017 goals and recommendations* (May 2017), 2, available at <https://www1.nyc.gov/assets/criminaljustice/downloads/pdfs/domestic-violence-task-force-2017-recommendations.pdf>.

<sup>27</sup> See New York City Police Department, *Domestic Violence* (last visited Oct. 21, 2018), available at <https://www1.nyc.gov/site/nypd/services/law-enforcement/domestic-violence.page>.

<sup>28</sup> NYC Mayor's Office to End Domestic and Gender Based Violence, *ENDGBV 2018 Domestic Violence Fact Sheet* (last visited June 17, 2019), available at [https://www1.nyc.gov/assets/ocdv/downloads/pdf/2018\\_ENDGBV\\_Fact\\_Sheet\\_rev.pdf](https://www1.nyc.gov/assets/ocdv/downloads/pdf/2018_ENDGBV_Fact_Sheet_rev.pdf); See also Rocco Parascandola and Thomas Tracy, *Domestic Violence Investigations Up 4%, NYPD Statistics Reveal*, NEW YORK

partner-related incidents in NYC since 2017,<sup>29</sup> and the number of domestic violence-related killings has continued to increase, while even the City's homicide rate has dropped.<sup>30</sup>

### III. BATTERER INTERVENTION PROGRAMS

#### *Overview of Batterer Intervention Programs*

Batterer intervention programs (BIPs) emerged in the 1980s as an alternative to incarceration for persons charged with or convicted of domestic violence in criminal court.<sup>31</sup> These programs gained traction when states implemented mandatory arrest statutes for alleged instances of IPV<sup>32</sup>—a law that was popular among feminists and victim advocate groups.<sup>33</sup> As a result, prosecutors increasingly pursued charges against batterers<sup>34</sup> irrespective of the victim's desire or willingness to cooperate with the prosecution.<sup>35</sup> As prosecution against batterers increased, criminal courts have had to sanction them, relying on batterer programs as a programming alternative to incarceration.<sup>36</sup> This is especially important because mandated programming is often the only

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DAILY NEWS (Oct. 10, 2018), available at <http://www.nydailynews.com/new-york/nyc-crime/ny-metro-body-cameras-domestic-violence-20181010-story.html>.

<sup>29</sup> NYC Mayor's Office to End Domestic and Gender Based Violence, *ENDGBV 2018 Domestic Violence Fact Sheet* (last visited June 17, 2019), available at [https://www1.nyc.gov/assets/ocdv/downloads/pdf/2018\\_ENDGBV\\_Fact\\_Sheet\\_rev.pdf](https://www1.nyc.gov/assets/ocdv/downloads/pdf/2018_ENDGBV_Fact_Sheet_rev.pdf); NYC Mayor's Office to Combat Domestic Violence, *Mayor's Office to Combat Domestic Violence: 2017 Annual Fact Sheet* (last visited June 17, 2019), available at <https://www1.nyc.gov/assets/ocdv/downloads/pdf/ocdv-fact-sheet-2017.pdf>.

<sup>30</sup> *Id.*; ENDGBV, *NYC Domestic Violence Task Force: 2017 Goals and Recommendations* 1, 2 (May 2017) available at <https://www1.nyc.gov/assets/criminaljustice/downloads/pdfs/domestic-violence-task-force-2017-recommendations.pdf>.

<sup>31</sup> The Advocates for Human Rights, *Recommendations for Effective Batterer Intervention Programs in Central & Eastern Europe & the Former Soviet Union* (Jan. 2016), pp. 32-33, available at [https://www.ohchr.org/Documents/Issues/Women/SR/Shelters/Advocates%20for%20human%20rights\\_BIP%20Report%20January%202016.pdf](https://www.ohchr.org/Documents/Issues/Women/SR/Shelters/Advocates%20for%20human%20rights_BIP%20Report%20January%202016.pdf)

<sup>32</sup> Robert Davis and Bruce Taylor et al., *Does Batterer Treatment Reduce Violence? A Randomized Experiment in Brooklyn* (Jan. 2000), National Criminal Justice Reference Service, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/180772.pdf>

<sup>33</sup> *Id.*

<sup>34</sup> With regard to individuals who have committed acts of domestic violence, this Committee Report utilizes the terms batterer and perpetrator interchangeably. In terms of references to court process, the Committee Report uses the term defendant.

<sup>35</sup> Robert Davis and Bruce Taylor et al., *Does Batterer Treatment Reduce Violence? A Randomized Experiment in Brooklyn* (Jan. 2000), National Criminal Justice Reference Service, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/180772.pdf>

<sup>36</sup> *Id.*

potential negotiation option to avoid a criminal record or potential grounds for deportation, punishments that often result in severe consequences for a family's financial and emotional health. These programs are also often used as sanctions in custody, visitation, and neglect proceedings in family court.<sup>37</sup>

Many different entities run BIPs. In some states, the probation department is the entity that operates BIPs.<sup>38</sup> In other states, like New York, it is victim and family services organizations and mental health practitioners that run such programs.<sup>39</sup> Similarly, intake policies vary for each program. Some programs accept all court referrals while other are more selective, excluding individuals with prior convictions or substance abuse problems.<sup>40</sup> Likewise, program lengths vary from as little as a day to thirty-two weeks depending on the program.<sup>41</sup> While program length has no significant bearing on effectiveness, researchers find that longer programs increase victim safety as batterers are out of the house for longer period of time and there is more potential for monitoring.<sup>42</sup>

Where programs are run by probation departments, supervision of batterers usually falls on probation officers, whereas supervision is undertaken by providers where programs are run by victim and family services organizations.<sup>43</sup> Unfortunately, New York has no structural or institutional support for these providers, meaning there is no unified training or support for

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<sup>37</sup> New York City Bar Association Domestic Violence Committee, *Choosing Between Batterers Education Program Models: Recommendations to New York City Domestic Violence Criminal and Family Courts* (Oct. 2004), available at <https://www.nycbar.org/pdf/report/BatterersReport%20FinalOct13041.pdf>

<sup>38</sup> Robert Davis and Bruce Taylor et al., *Does Batterer Treatment Reduce Violence? A Randomized Experiment in Brooklyn* (Jan. 2000), National Criminal Justice Reference Service, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/180772.pdf>

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> Larry Bennett and Oliver Williams, *Controversies and Recent Studies of Batter Intervention Program Effectiveness* (Aug. 2001), National Resource Center for Domestic Violence, available at

<sup>43</sup> Robert Davis and Bruce Taylor et al., *Does Batterer Treatment Reduce Violence? A Randomized Experiment in Brooklyn* (Jan. 2000), National Criminal Justice Reference Service, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/180772.pdf>



nonprofits running BIPs. However, as these programs have become court mainstays, judges have begun to play an increasingly outsized role in monitoring program participants.<sup>44</sup> While, historically, supervision has been lax and completion rates relatively low, over time supervision has become stricter and sanctions for failure to complete the program more common.<sup>45</sup> However, a study from the Center for Court Innovation (CCI) on the efficacy of judicial monitoring found that it had no impact on re-arrests, program attendance, or program completion although program participants were “likely to believe that they understood their obligations, that there would be consequences for non-compliance, and that the consequence would be severe.”<sup>46</sup>

Still, BIPs have become a popular mode of judicial sanction as many victims choose to remain in a relationship with their abusive partner.<sup>47</sup> Research shows that victims often stay with their batterer when such sanctions offer them safety from violence and promote changes in their abusive partner’s violent and controlling behavior.<sup>48</sup> This has some advocates concerned that BIPs may just be another vehicle to promote further victimization as research shows that BIPs have no significant effect – either positive or negative - on re-assault.<sup>49</sup>

Recently, however, BIPs have been increasingly tailoring interventions to meet the needs of different types of batterers, such as those with violent history, substance abuse, and sociocultural differences, such as race and sexual orientation.<sup>50</sup> This is an important development in BIPs as

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<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Melissa Labriola and Amanda Cissner et al., *Testing the Efficiency of Judicial Monitoring A Randomized Trial at the Rochester, New York Domestic Violence Courts* (Dec. 2012), Center for Court Innovation, p. vii, available at [http://www.courtinnovation.org/sites/default/files/documents/Testing\\_Efficacy\\_Judicial\\_Monitoring.pdf](http://www.courtinnovation.org/sites/default/files/documents/Testing_Efficacy_Judicial_Monitoring.pdf)

<sup>47</sup> Larry Bennett and Oliver Williams, *Controversies and Recent Studies of Batter Intervention Program Effectiveness* (Aug. 2001), National Resource Center for Domestic Violence, available at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.208.6602&rep=rep1&type=pdf>

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> Robert Davis and Bruce Taylor et al., *Does Batterer Treatment Reduce Violence? A Randomized Experiment in Brooklyn* (Jan. 2000), National Criminal Justice Reference Service, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/180772.pdf>

research shows that race, for example, significantly influences a person's willingness to participate in BIPs.<sup>51</sup> Newer versions of BIPs, now often called abusive partner intervention programming (APIP) - aim to move away from traditional court-mandated programs based on punishment, and move instead towards programs focused on culture change, restorative justice, and community-based approaches.<sup>52</sup>

### *Types of Batterer Intervention Programs*

There are at least multiple BIP models that have emerged over the years—all with the goal of promoting victim safety, the primary goal of BIPs, as well as accountability and rehabilitation.<sup>53</sup> Most BIPs fall into one of the four models: (1) Duluth model, (2) cognitive-behavioral model, (3) family system model, and the (4) psychotherapeutic model.<sup>54</sup> Each model offers different approaches to intervention.<sup>55</sup> In practice, however, most BIPs often borrow from each model even though most are based on the Duluth model.<sup>56</sup>

The Duluth model, one of the early models of BIPs, which still has currency today, has a feminist curriculum centered on exploring the ways in which a batterer's violence is rooted in patriarchy while examining the benefits of non-violence and egalitarian relationships.<sup>57</sup> This model attempts to change the batterer's belief system through group education session with two co-

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<sup>51</sup> Larry Bennett and Oliver Williams, *Controversies and Recent Studies of Batter Intervention Program Effectiveness* (Aug. 2001), National Resource Center for Domestic Violence, available at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.208.6602&rep=rep1&type=pdf>

<sup>52</sup> Committee staff conversation with CCI, 11/15/2019

<sup>53</sup> New York City Bar Association Domestic Violence Committee, *Choosing Between Batterers Education Program Models: Recommendations to New York City Domestic Violence Criminal and Family Courts* (Oct. 2004), p. 3, available at <https://www.nycbar.org/pdf/report/BatterersReport%20FinalOct13041.pdf>

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Robert Davis and Bruce Taylor et al., *Does Batterer Treatment Reduce Violence? A Randomized Experiment in Brooklyn* (Jan. 2000), National Criminal Justice Reference Service, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/180772.pdf>

<sup>57</sup> New York City Bar Association Domestic Violence Committee, *Choosing Between Batterers Education Program Models: Recommendations to New York City Domestic Violence Criminal and Family Courts* (Oct. 2004), p. 3, available at <https://www.nycbar.org/pdf/report/BatterersReport%20FinalOct13041.pdf>

facilitators – usually a male and a female to provide example of positive male-female interactions.<sup>58</sup>

The group education model, ostensibly, holds batterers accountable and provides them with emotional support outside their intimate relationship.<sup>59</sup>

The cognitive-behavioral model views violence as a learned behavior.<sup>60</sup> Under that assumption, since violence is learned, this model holds that non-violence can also be learned.<sup>61</sup> BIPs based on this model provide anger management classes, often along with group education session based on the Duluth model.<sup>62</sup> This model has been criticized because “it does not account for batterers who do not react violently outside of their relationships or [those] who continue to use violence even when it not rewarded [by victim compliance].”<sup>63</sup> Moreover, the anger management component of this model “minimize[s] the batterer’s violence as an anger management issue, [ignoring] the batterer’s desired result of [their] violence and manipulation – power and control over the victim – and thereby jeopardize the victim’s safety.”<sup>64</sup>

The family system model is premised on the belief that domestic violence is the result of poor interaction between intimate partners.<sup>65</sup> This model requires both partners to take responsibility for the problems that precipitated violence and offers couple’s counseling to equip them with communication and conflict resolution skills.<sup>66</sup> However, both advocates and practitioners have criticized this model as ineffective since it places the victim in danger of further violence and excuses the batterer from taking sole responsibility for using violence in the first place.<sup>67</sup> Due to such criticism, “eighty-one percent of state standards for batterer’s education

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<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> [\*Id.\*](#)

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

programs explicitly prohibit the use of couple counseling where domestic violence is alleged,”<sup>68</sup> and psychological and social work associations have come out against couple counseling where one partner is violent.<sup>69</sup>

The psychotherapeutic model views domestic violence as a learned behavior stemming from past trauma.<sup>70</sup> This model assumes that examining past trauma would help the batterer address their violent behavior.<sup>71</sup> Through one-on-one therapy sessions with a counselor, a batterer explores “inner-life experiences, past experiences, and current interactions with others.”<sup>72</sup> While this model has positive long term effects, it is not without criticism. According to a report of the Domestic Violence Committee of New York City Bar Association, this model “minimizes the batterer’s current responsibility for past and on-going violence by centering on how the batterer was abused in the past.”<sup>73</sup> The report also purported that the model is not consistent with the consensus that domestic violence is not a private a matter; it’s a public one involving criminal justice agencies.<sup>74</sup>

#### **IV. ISSUES AND CONCERNS**

##### *Efficacy and Efficiency of Batterer Intervention Programs*

There is little consensus on the efficacy of BIPs. The benefits and impacts of such programs are affected by a variety of factors and studies have not concluded why BIPs are effective for some but not all perpetrators, or why some models of BIPs are more effective for some perpetrators but not others. Program evaluations investigating BIPs using same curriculum have yielded

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<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

contradictory findings, indicating some programs are effective where others are not.<sup>75</sup> However, there is little explanation for these findings.

The effectiveness of BIPs is still in question due to methodological concerns about the research of rigorous evaluations and confounding conclusions based on literature-reviews that assert that BIPs are effective.<sup>76</sup>

For example, one study into BIPs noted that criminal justice mandates maintain engagement with younger and higher-educated men in treatment programs, however, those with lower levels of educational attainment or the underemployed would drop out at higher rates. Similarly, men of color were more likely to leave treatment prematurely than white men.<sup>77</sup>

The study found that where the court mandated treatment, there were sometimes no reported consequences for non-compliance.<sup>78</sup> There, however, where “attendance checking” was removed from the courts, and instead undertaken by partners, legal services, or social services, perpetrators more frequently continued treatment.<sup>79</sup>

Another study suggested that participation in court mandated BIPs resulted in significant changes to psychological variables related to domestic violence.<sup>80</sup> However, a control group was lacking to determine whether positive changes are result of program participation.<sup>81</sup>

According to some researchers, BIPs seemed to show some benefits for perpetrators. Specifically, their studies showed that completers of BIPs had lower recidivism rates than

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<sup>75</sup> Buttell, Frederick and Carney, Michelle Mohr. *A Large Sample Evaluation of a Court-Mandated Batterer Intervention Program: Investigating Differential Program Effect for African American and Caucasian Men*. Research on Social Work Practice, Vol 16. No. 2, March 2006.

<sup>76</sup> *Id.*

<sup>77</sup> Saunders, Daniel G. PhD. *Group Interventions for Men Who Batter: A Summary of Program Descriptions and Research*. Violence and Victims. Vol 23, No. 2. 2008.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Buttell, Frederick and Carney, Michelle Mohr. *A Large Sample Evaluation of a Court-Mandated Batterer Intervention Program: Investigating Differential Program Effect for African American and Caucasian Men*. Research on Social Work Practice, Vol 16. No. 2, March 2006.

<sup>81</sup> *Id.*

dropouts.<sup>82</sup> Yet, the rates of dropout or re-assault appeared unrelated to the perceived certainty or severity of sanctions. This seems to demonstrate that rather than the consequences of non-compliance, BIPs are less effective for individuals who are younger and those without a “stake in conformity.”<sup>83</sup>

However, there may be some unexamined variables at work that account for the difference in program findings. According to Butell and Mohr, it is overly simplistic to frame evaluation in terms of a BIP’s effect on altering psychological variables related to abuse. Outside factors, like judicial support for the program and the experience of group leaders, may interact with BIP curricula and confound meaningful understanding<sup>84</sup>

The effectiveness of BIPs is again brought into question as one study showed no significant differences between men assigned to 6 months of treatment and 1 year of probation in comparison to men assigned 1 year of probation only.<sup>85</sup> There were similar reports about the average frequency of violence from the offenders or victims of both groups. However, researchers did note that this study only interviewed 22% of victims to reach its conclusions, calling its thoroughness and conclusion into question.<sup>86</sup>

Another review of nineteen studies revealed that official reports show a positive effect on violence cessation.<sup>87</sup> However, 2 other meta-analyses concluded the overall effects of treatment were minimal. Treatment effects in experimental studies that relied on victim reports were particularly small. According to the authors of the study, although treatment effects overall seem

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<sup>82</sup> Saunders, Daniel G. PhD. *Group Interventions for Men Who Batter: A Summary of Program Descriptions and Research*. Violence and Victims. Vol 23, No. 2. 2008.

<sup>83</sup> *Id.*

<sup>84</sup> Buttell, Frederick and Carney, Michelle Mohr. *A Large Sample Evaluation of a Court-Mandated Batterer Intervention Program: Investigating Differential Program Effect for African American and Caucasian Men*. Research on Social Work Practice, Vol 16. No. 2, March 2006.

<sup>85</sup> Saunders, Daniel G. PhD. *Group Interventions for Men Who Batter: A Summary of Program Descriptions and Research*. Violence and Victims. Vol 23, No. 2. 2008.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

to be small, this may be unsurprising as perpetrators are generally unmotivated and have chronic underlying issues.<sup>88</sup> Furthermore, both quasi-experimental and experimental studies have serious design and implementation problems.<sup>89</sup>

Notably, across all types of evaluation designs, approximately one-third of victims reported reoccurrence of abuse about 1 year after treatment. In fact, 1 thirty-month follow up study showed a 41% recidivism rate.<sup>90</sup>

The Canadian Task Force on Preventative Health Care reviewed eleven experimental and quasi-experimental studies to conclude, “there is conflicting evidence regarding the effectiveness of batterer interventions (with or without partner participants) in reducing rates of further domestic violence.” Accordingly, “the evidence does not allow making a recommendation for or against the use of the clinical preventative action, however other factors may influence decision making.”<sup>91</sup>

It becomes evident that despite an accumulation of outcome studies, very few are rigorous. Thus, firm conclusions cannot be made about the effectiveness of BIPs.

#### Differential impact of batterer intervention programs based on race and gender

Data on the differential impact of BIPs based on race and gender is scarce. A 1994 study found that half of BIPs surveyed made no special effort to understand the needs of minority communities.<sup>92</sup> When a program did make an attempt, the results were positive - program completion rates were higher for men with high cultural identification that attended culturally

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<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

focused groups.<sup>93</sup> The researchers acknowledged that the resentment people of color feel towards the justice system needs to be addressed through training and information to improve outcomes.<sup>94</sup>

Cultural, regional, and socioeconomic realities are impossible to remove from the results of the studies themselves. A study emerging from South Carolina indicated that relative to Caucasian perpetrators, African American perpetrators were younger, more frequently unmarried, more frequently referred to the program following an arrest for domestic violence, earned less monthly, had more children, had lower levels of educational attainment, and were less likely to report drug or alcohol abuse. They also manifested higher levels of self-deception and socially desirable responding but lower levels of assertiveness and propensity of abuse. These traits manifested equally among men and women in the studies.<sup>95</sup>

However, it is important to note that as the study took place in South Carolina, specific regional factors could have impacted its findings. For example, when African American perpetrators in the study presented themselves at BIPs, they routinely believed they had been unfairly arrested, prosecuted, and convicted of domestic violence offense by racist criminal justice system.<sup>96</sup> This could explain the higher levels of self-deception and lower propensity for abusiveness or drug use.

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<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> Buttell, Frederick and Carney, Michelle Mohr. *A Large Sample Evaluation of a Court-Mandated Batterer Intervention Program: Investigating Differential Program Effect for African American and Caucasian Men*. Research on Social Work Practice, Vol 16. No. 2, March 2006; see also Buttell, Frederick and Carney, Michelle Mohr. *An Evaluation of a Court-Mandated Batterer Intervention Program: Investigating Differential Program Effect for African American and White Women*. Research on Social Work Practice, Vol 16. No. 6, November 2006.

<sup>96</sup> Buttell, Frederick and Carney, Michelle Mohr. *A Large Sample Evaluation of a Court-Mandated Batterer Intervention Program: Investigating Differential Program Effect for African American and Caucasian Men*. Research on Social Work Practice, Vol 16. No. 2, March 2006; see also Buttell, Frederick and Carney, Michelle Mohr. *An Evaluation of a Court-Mandated Batterer Intervention Program: Investigating Differential Program Effect for African American and White Women*. Research on Social Work Practice, Vol 16. No. 6, November 2006.



According to the researchers, the men involved in the study were less passive aggressive, less controlling, and demonstrated lower propensity for abusiveness at the conclusion of the BIP. Furthermore, African American and Caucasian batterers were similarly affected by the BIP.

Notably, there have been 3 studies of these racial groups overall, with 2 finding significant improvement and 1 finding no significant improvement on the constructs targeted in BIP treatment. However, all 3 studies found no difference between the 2 racial groups. Both were similarly affected by BIPs and provide preliminary evidence to refute claims that BIPs being instituted through state standards does not capture the experience of African American men.<sup>97</sup>

With regard to a study of batterer intervention programs for their effectiveness for Caucasian and African American women, it is important to note that the programs that the women were placed in were actually designed for men.<sup>98</sup> The researchers expressed concerns that states are institutionalizing a program structure and length that does not work or may be marginally effective, overall.<sup>99</sup> This is compounded for women based on the fact that the programs themselves are designed for men.

#### Batterer intervention programs and the LGBTQ+ community

Many traditional BIPs are based on “one-size-fits-all” model. Such programs are not customized based on race, gender identity or expression, or sexual orientation. A review of research regarding BIPs reveals a lack of program visibility and ability to guarantee an LGBTQ+ person’s safety and comfort along with lack of outreach to the LGBTQ+ community.<sup>100</sup> In fact, the research available showed almost no data on programs for transgender, non-conforming (TGNC) individuals

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<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> Cannon, Clare E.B., PhD. *What Services Exist for LGBTQ Perpetrators of Intimate Partner Violence in Batterer Intervention Programs Across North America? A Qualitative Study.* Partner Abuse. Vol. 10. No. 2, 2019

or even whether TGNC individuals are involved in any BIPs.<sup>101</sup> This appears to be the case despite evidence demonstrating that IPV occurs at comparable or greater rates in same-sex relationships than in opposite-sex relationships based on data from the NISVS.<sup>102</sup>

One of the primary concerns with BIPs is that many rely on the Duluth model for treatment intervention which is based on patriarchal models of IPV. As a result, the models were designed heteronormatively with man-as-perpetrator and woman-as-victim arrangement. Obviously, this is not applicable for LGBTQ+ relationships.<sup>103</sup>

There is a question of whether LGBTQ+ identified batterers have specific, differing needs. LGBTQ+ individuals are most common population for which specific interventions are made, usually due to geography or size. Usual interventions are to change program material language to be more gender inclusive or treat LGBTQ+ clients one-on-one.<sup>104</sup> However, researchers also call for such interventions to include more culturally diverse staff and training for police and courts.<sup>105</sup>

Researchers have found that IPV occurs in LGBTQ+ relationships at similar or more prevalent rates than heterosexual relationships but none of the providers surveyed reported there were enough LGBTQ+ people to warrant their own group.<sup>106</sup> They acknowledge the possibility that providers could have been unaware that they were working with LGBTQ+ community members.

Although some studies may show that BIPs are effective, contradictory studies also exist and point to unknown factors that could impact results. Overall, this leaves open the question of

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<sup>101</sup> The NISVS does not ask for the sexual orientation data for transgender identified people. As a result, information on this population is uncollected and unavailable.

<sup>102</sup> *See supra.* fn 14.

<sup>103</sup> Cannon, Clare E.B., PhD. *What Services Exist for LGBTQ Perpetrators of Intimate Partner Violence in Batterer Intervention Programs Across North America? A Qualitative Study.* Partner Abuse. Vol. 10. No. 2, 2019.

<sup>104</sup> *Id.*.

<sup>105</sup> *Id.*

<sup>106</sup> Cannon, Clare E.B., PhD. *What Services Exist for LGBTQ Perpetrators of Intimate Partner Violence in Batterer Intervention Programs Across North America? A Qualitative Study.* Partner Abuse. Vol. 10. No. 2, 2019.

the effectiveness of batterer intervention programs and their efficiency as well as whether any alternative programs should be considered or pursued.

## V. BEST PRACTICES

### *Advocate-Approved Programs*

While advocates agree on the need for programs for perpetrators, there is no consensus on the methodology to use. Some advocates operated batterer intervention programs or abusive partner intervention programs in the past but questioned their efficacy. Survivors of intimate partner violence favored such programs that provided alternatives to jail. However, the results of those programs were not client informed; instead they were based on police reports that showed little impact on recidivism. In addition, the limited length of the programs and their focus on men's violence against women did not adequately address the trauma faced by perpetrators or their other concerns such as work, food, and housing. Advocates agree that more trauma informed services could prove to be successful.

As part of a new effort to address the needs of survivors who may wish to keep their families together or maintain contact with perpetrators of IPV, SafeHorizon and the Children's Aid Society are pursuing a new type of program. The program, called Safe Way Forward,<sup>107</sup> would have one facility for survivors and their children while the second provides services for perpetrators of violence. The program intends to provide more trauma informed services for the person causing harm. It would also reach more children early on to stop the cycle of violence.

BIPs in New York have been based on patriarchal models, questioning the perpetrator's capacity for change. In addition, traditional BIPs may not be applicable to LGBTQ+ relationships as they are based on patriarchal roles that simply cannot apply to LGBTQ+ relationships. The relevant parties to the relationships cannot be divided into a binary of the party being harmed or

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<sup>107</sup> Safe Way Forward is a demonstration program funded through the Administration for Children's Services in conjunction with SafeHorizon and the Children's Aid Society to provide counseling to perpetrators of domestic violence. *Domestic Abusers to Get Counseling from ACS in Groundbreaking New Program*. SAFEHORIZON. Oct. 24, 2018 available at <https://www.safehorizon.org/safe-horizon-in-the-news/domestic-abusers-counseling-safe-way-forward/>. (Accessed Nov. 13, 2019).

causing harm. Rather, a more trauma informed model is required since in these scenarios a person causing harm could genuinely see themselves as a survivor and thereby seek survivor's resources.

The Anti-Violence Project (AVP) along with a coalition of organizations, comprising the Coalition for Working with Abusive Partners (CoWAP), have taken more therapeutic and skills based approaches to batterer intervention. CoWAP was formed by DV survivor advocates and includes former perpetrators, along with fatherhood advocates who pursue alternative methods of addressing this issue. AVP has also recently piloted a fifteen-week, free, program in which they worked with self-identified perpetrators with a broad range of backgrounds. All the participants in the program completed it and cited their positive experience with the program as the reason for referring it to others. Specifically, the APV program addresses both sexual violence in IPV scenarios and includes LGBTQ+ specific components such as addressing the nuanced identities of participants and an interpretation of the power and control wheel that leads to healing, accountability, and restorative justice.

## **VI. THE CITY'S FUNDING AND UTILIZATION OF BATTERER INTERVENTION PROGRAMS**

### *Historic Programming and Budget*

As a traditional court-mandated program, the Power and Control (PAC) Program works with the criminal and family court systems of NYC and offers court-mandated programming in lieu of punishment. PAC aims to address issues of abuse and coercion in relationships through the evidence-based Duluth Model curriculum designed to teach new patterns of thought and behaviors. The program is available in all 5 boroughs and includes twenty-four-weeks of 1 hour programming. Participants pay for sessions on a sliding scale basis and full scholarships are available as needed. Under the contract, PAC utilizes the NYS WebCrims database to see whether participants were rearrested within ninety-days of successful completion of the program, and if so, what the arrest charge was. Approximately \$725,000 is in the Budget via a contract managed by MOCJ for the

QCC Services PAC Program for PAC Programming. This funding was first awarded in Fiscal 2013, and an additional \$200,000 in asset forfeiture funds were allocated by the Mayor's Domestic Violence Task Force to expand PAC programming into Staten Island, as of July 1, 2018.

### *New Initiatives*

The Fiscal 2020 Budget includes a total of \$10.2 million to support the development of innovative BIP throughout NYC. As part of a new effort to address the needs of survivors who may wish to keep their families together or maintain contact with perpetrators of IPV, funding of approximately \$6.4 million supports "A Safe Way Forward," a recent demonstration project solicitation managed by the Administration for Children's Services (ACS).<sup>108</sup> The total allocated amount is approximately \$19 million over a 3 year period. SafeHorizon and the Children's Aid Society were awarded contracts, and are pursuing a new type of program. The program will have 1 facility for survivors and their children while the second will provide services for perpetrators of violence. The program intends to provide more trauma informed services for the person causing harm. It would also reach more children early on to stop the cycle of violence, in a preventative effort.<sup>109</sup>

As a recommendation of the Mayor's Domestic Violence Task Force, in May 2018, the City announced its Interrupting Violence at Home Initiative. This initiative aims to address abusive behavior by working with people who cause harm in intimate partner relationships by developing and utilizing evidence-based, trauma-informed, and restorative justice intervention models. The community-based programming will be non-mandated, and culturally and linguistically specific

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<sup>108</sup> See The City Record Online. *Prevention Services for Families Experiencing Domestic Violence*, available at <https://a856-cityrecord.nyc.gov/RequestDetail/20181102117>

<sup>109</sup> <sup>109</sup> Safe Way Forward is a demonstration program funded through the Administration for Children's Services in conjunction with SafeHorizon and the Children's Aid Society to provide counseling to perpetrators of domestic violence. *Domestic Abusers to Get Counseling from ACS in Groundbreaking New Program*. SafeHorizon. Oct. 24, 2018 available at <https://www.safehorizon.org/safe-horizon-in-the-news/domestic-abusers-counseling-safe-way-forward/>. (Accessed Nov. 13, 2019).

and seek to reach communities that are traditionally marginalized including LGBTQ+ individuals..

The initiative includes 5 main goals:<sup>110</sup>

- 1) Create a City-funded community-based program for abusive partners who are not involved in the criminal justice system.
- 2) Create a City-funded trauma-informed and culturally-competent accountability program for teens who have demonstrated unhealthy relationships with intimate partners and/or family members.
- 3) Incorporate Domestic Violence Coordinators at NYC Crisis Management System (CMS) sites to enhance the identification and response to domestic violence in communities served by CMS sites.
- 4) Work with consultants to develop a blueprint for implementing restorative justice practices in community-based models to address domestic violence in NYC.
- 5) Develop a training curriculum to provide NYC agency staff working with offender populations with tools to understand offender risk factors, identify high levels of risk, and gain skills to engage with abusive partners.

Funding of \$3.3 million supports a range of programs through the Interrupting Violence at Home Initiative, of which \$2.2 million supports the development of a BIP and training curriculum, and approximately \$630,000 supports domestic violence outreach workers at Crisis Management Sites (CMS). The \$2.2 million that is earmarked for APIP is currently in the developing stages. This includes programming and curriculum that is being developed for adults and teens who have

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<sup>110</sup> NYC Press Release. *First Lady Chirlane McCray Announces Groundbreaking City Initiative to Intervene in and Reduce Domestic Violence*, May 2, 2018, available at: <https://www1.nyc.gov/office-of-the-mayor/news/234-18/first-lady-chirlane-mccray-groundbreaking-city-initiative-intervene-and-reduce>

been identified as causing harm in their relationships, as well as training for NYC Agency staff working with offender populations. It is expected that actual services will begin in Fiscal 2021 and that the services will be provided through contracted providers.<sup>111</sup>

As a part of the Interrupting Violence at Home Initiative, the budget includes another \$632,335 for domestic violence coordinators stationed at CMS sites. The contracted provider for this service is CCI; there are 6 domestic violence coordinators with a caseload of roughly twenty individuals, and services are available in every borough.

In addition, as a part of the Manhattan District Attorney's Criminal Justice Investment Initiative, which utilizes asset forfeiture funding to address criminal justice needs in the community, the Office has awarded a total of \$1.5 million to Urban Resource Institute over a three year period, (approximately \$500,000 per year) to develop their own APIP.<sup>112</sup> In part, the program replicates a similar model used successfully in Westchester County for the last 2 years. The APIP program, at least on paper, includes more counseling and holistic interventions than traditional BIPs. However, as the program only started taking place this summer, there is no available data on success rates at this point.

CCI is also drafting a curriculum for a new twenty-six-week intervention model, to be implemented across the city via a MOCJ RFP. The curriculum would use cognitive-behavioral therapy, and use participant beliefs in procedural justice, hope and trust as metrics of success, not simply recidivism rates that are controlled by law-enforcement processes.<sup>113</sup>

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<sup>111</sup> Committee staff conversation with ENDGBV on 11/13/2019

<sup>112</sup> Press Release. *District Attorney Vance Invests in Innovative Domestic Violence Intervention Program*. District Attorney New York County. Oct. 10, 2018. Available at <https://www.manhattanda.org/district-attorney-vance-invests-in-innovative-domestic-violence-intervention-program/>; Committee staff conversation with Manhattan District Attorney's Office on 11/14/2019

<sup>113</sup> Committee staff conversation with CCI, 11/15/2019



## **VII. CONCLUSION.**

At today's hearing, the Committees on the Justice System and Women and Gender Equity will seek to gain a better understanding of the efficacy and efficiency of BIPs, including those operating in the city. The Committees are interested in learning about how such programs are funded, how often they are used, what metrics are used to measure their effect, and what adaptations of the programs are on the horizon.