

Specialized Felony Domestic Violence Courts: Lessons on Implementation and Impacts From the Kings County Experience

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The National Institute of Justice (NIJ) funded a study by the Center for Court Innovation in New York and the Urban Institute in Washington, D.C., that used process and outcome evaluations to document and evaluate the effectiveness of the implementation of the Kings County (Brooklyn, New York) Felony Domestic Violence Court (FDVC). This paper analyzes some of the goals and strategies of the model under which FDVC and its partner agencies operate. It also gives an overview of the major influences on FDVC's development during its first 4 years of operation, details implementation issues that have arisen and how they have been addressed, and discusses outstanding operational issues.

The study uses qualitative research methods that include interviews with several key court and partner-agency personnel, observations of courtroom proceedings, and attendance at coordination meetings. It also draws on statistical analyses of data provided by the Office of Court Administration on FDVC cases and documents prepared by the Center for Court Innovation and others.

The evaluation of the effectiveness of the FDVC model uses statistical analyses to compare case characteristics, processing, and outcomes for a sample of cases adjudicated in the Kings County Supreme Court before FDVC was established with a sample of cases adjudicated by the specialized court during the early months of its operation.

Key Elements of FDVC

FDVC has been in operation since June 1996. Its goal is to create an effective and coordinated response to felony domestic violence crimes by bringing together criminal justice and social service agencies. The FDVC model operates at both a systemic level (by seeking to change how community agencies work together) and at an individual case level (through efforts to hold offenders more accountable and provide better protection and services to victims). The model features several innovative structures and practices:

- ◆ *A network of criminal justice and social service partner agencies that work together.* The core partner agencies coordinate at a systemic level through regular networking meetings and multidisciplinary trainings. The key agencies consist of FDVC; the Center for Court Innovation (a public/private partnership that develops and implements innovative court programs); the Domestic Violence Bureau and Counseling Services Unit of the Kings County District Attorney's Office; Safe Horizon (a private, nonprofit organization, formerly called Victim Services), which sponsors both the Brooklyn Felony Domestic Violence Unit and the Alternatives to Violence Program (a batterer intervention program); the New York City Department of Probation; the New York Center for Neuropsychology and Forensic Behavioral Science (New York Forensics); and Treatment Alternatives to Street Crime.
- ◆ *A specialized caseload that consists only of indicted domestic violence felonies.* Concentrating all these cases on a single docket has the advantages of efficiently bringing resources together and making it easier to identify and address gaps in the system of services.
- ◆ *Trained and dedicated personnel from court, prosecution, offender intervention and treatment, probation, and victim service agencies.* Most of the personnel involved specialize

in domestic violence cases and have received extensive and ongoing training in domestic violence issues. Judges take a key leadership role in implementing the FDVC model.

- ◆ *Vertical processing and standard practices to ensure consistency in case handling.* Each case is handled by the same judge, prosecutor, and advocate team from the point of post-indictment arraignment in the Kings County Supreme Court (with occasional exceptions for cases that go to trial). Standard practices, such as the routine use of protection orders and FDVC mandates to batterer intervention and treatment programs as needed during the predisposition phase, are employed.
- ◆ *Enhanced case information flow among partner agencies to improve judicial decisionmaking and partner agency operations.* Each judge has a resource coordinator, and the batterer intervention, treatment, probation, and victim service agencies have court liaisons or other dedicated staff to enhance the exchange of information about cases. A grant-funded technology application project has developed an automated system to make communication links faster and more efficient and information more readily available.
- ◆ *An emphasis on defendant monitoring and accountability.* Defendants are routinely ordered to batterer intervention programs during the predisposition period. Those who are sentenced to probation following conviction also must continue to attend these programs. FDVC uses these programs almost exclusively as a means of surveillance; the court tracks attendance at the programs between court appearances to ensure compliance with the terms imposed by the court and provide a mechanism for accountability. Defendants and probationers must also appear regularly in court for monitoring so FDVC can review their compliance with court orders and sanction noncompliance. Both detained and released defendants are monitored throughout the predisposition period. Defendants sentenced to probation and, recently, those released on parole, continue to be monitored following disposition of the case.
- ◆ *Enhanced protection for and services to victims.* Advocates from Safe Horizon and the District Attorney's Office's Counseling Services Unit work with the victims in domestic violence cases from just before grand jury presentation (or earlier for major crimes that receive on-scene intervention) through case disposition and sometimes beyond, particularly if the offender is sentenced to probation. Advocates offer a broad range of assessment, referral, and information services to victims and, with the victims' consent, inform the court of victims' reports of additional threats, intimidation, or abuse by the batterer. The court also offers protection to victims through the routine use of protection orders throughout the adjudication process. In addition, protection orders are generally imposed on the defendant as part of the case disposition.

Development and Implementation of the FDVC Model

Many factors influenced the development of the FDVC model. The partners in the development of the model became increasingly aware of the need for an intensive and coordinated approach to difficult and complicated cases. In addition, pioneering efforts in other jurisdictions nationwide had employed specialized dockets and other critical elements of the model (e.g., coordinated partnerships, specialized prosecution units, and enhanced services for victims and batterers).

Innovative approaches to case handling, such as the District Attorney's Office's evidence-based prosecution policy, vertical prosecution model, and expanded definition of domestic violence, were already being used before FDVC started operation. The Kings County court system had used treatment referrals, monitoring, and resource coordinators in specialized drug courts. The court received the support of the administrative judges, the district attorney, and other influential personnel. A domestic violence homicide was the catalyst for moving up the FDVC starting date.

In its first years of operation, FDVC's caseload grew substantially for several reasons. In the context of the specialized court, the District Attorney's Office became more likely to indict and prosecute cases. Additionally, legislation enacted shortly after the court started operations mandated arrest for domestic violence cases under certain circumstances and upgraded most violations of protection orders from misdemeanors to felonies. Prior to these legislative changes, many domestic violence cases would have been adjudicated solely in lower courts. The court system responded to the increased caseload by recruiting judges from other felony courts to preside over trials and by opening a second felony domestic violence court in April 1998.

FDVC's caseload has diminished since early 1999. This may be due to a drop in the number of arrests, which may reflect decreases in felony domestic violence crimes, lower rates of reporting these crimes, and/or lower arrest rates. Unfortunately, data are not available to test these hypotheses. Whatever the cause(s), the effect has been to relieve some of the pressures on the partner agencies and allow a more faithful implementation of the model (e.g., true vertical adjudication and scheduling monitoring appearances more frequently).

The FDVC model has been expanded in several ways. More agencies have become involved, including mental health service providers and additional batterer intervention programs. The original batterer intervention program stopped receiving clients because of problems in reporting and the court's concerns about how services were delivered. Services have been expanded to Rikers Island to enable detained defendants and offenders serving jail time to receive services as well. The New York City Department of Probation formed a dedicated domestic violence unit that offers intensive supervision, including electronic surveillance for high-risk cases. Links have been established with the State Department of Corrections and Division of Parole to better enforce postdisposition protection orders and allow court monitoring of parolees. Links have also been formed with the Kings County–Brooklyn Family Court and the Administration for Children's Services to improve coordination for families with cases in multiple courts or with child abuse and neglect matters. The technology application noted previously improves communication links among court and partner agencies and streamlines the process of issuing and registering protection orders.

Findings: Impact of the FDVC Model on Early Cases

Quantitative data were analyzed to examine the effects of the FDVC model on case processing, case outcomes, and recidivism. A total of 136 cases adjudicated by FDVC in the first half of 1997 (including 27 cases in which a felony protection order violation was the only felony indictment) were compared with a sample of 93 cases handled by general felony courts in the 18 months before the specialized court was established. These 136 FDVC cases were processed during the early days of the court, which has now disposed of more than 1,100 cases. The data

therefore do not reflect changes in the court and partner agencies from 1998 to 2000. However, the study findings indicate that the use of this court model has made a difference in several key areas:

- ◆ The District Attorney's Office is more likely to indict less serious cases to make use of enhanced defendant monitoring and victim services. Dismissal rates, at 5 to 10 percent of indicted cases, are low. In addition, as noted earlier, a new State law implemented shortly after FDVC began resulted in the prosecution as felonies of many protection order violations that would previously have been misdemeanors. These changes in law and practice meant that cases adjudicated by FDVC varied more in the severity of the criminal incident than did the cases processed by the general felony courts (even when the protection order violations were considered separately). This may in turn have influenced patterns in case processing, disposition, and sentencing (discussed below).
- ◆ Victim services are expanded under the specialized court; all victims are assigned an advocate and receive a protection order during case processing (and often afterward as well). Unfortunately, data describing the nature or impact of advocacy services received were not available.
- ◆ Judicial monitoring of defendant compliance could not be documented because information that distinguished status appearances from other types of court appearances was not available from either predisposition or postdisposition file reviews. Predisposition release was used somewhat more often in FDVC cases than in general felony court, and released FDVC defendants were more likely to be ordered to batterer intervention programs while on release. Many defendants were returned to jail for infractions of release conditions, no matter which court handled their case.
- ◆ On average, FDVC spent slightly more time processing each case from felony arraignment to disposition. However, this increased processing time seems to be related to the greater range in the severity of the crimes charged in FDVC indictments and to an increase in the number of defendants who were released and remanded for infractions. It is difficult but important to strike a balance between the need to give these complex and intractable cases the time and attention they require, the need to provide speedy justice, and the various pros and cons of predisposition release.
- ◆ Conviction rates did not change under FDVC, but methods of reaching disposition did. Convictions by guilty pleas were more common and trials were less common in FDVC cases. Even accounting for other relevant factors, such as those related to evidence, plea bargaining is more likely to result from use of the FDVC model. This represents a cost saving to the court system. Conviction charges were, on the whole, less severe for FDVC cases than cases processed by general felony courts. This may be a product of the greater use of plea bargaining or that less serious cases (based on arrest charges) are more likely to enter FDVC than would have entered felony courts.
- ◆ On the whole, sentencing practices under the FDVC model were neither more punitive (in terms of incarceration) nor more treatment oriented (with treatment mandates as a condition

of the sentence) than before FDVC began. It seems likely that the reasons that sentencing did not become more punitive were related to the referral of less severe cases to FDVC than to general felony courts and to the greater use of plea bargaining. Although FDVC did not order more convicted defendants into batterer intervention programs than the general felony courts did, this may have been because FDVC used those programs much more widely in the predisposition period.

- ◆ Data on probation violations and arrests for additional incidents were analyzed. Because of limitations imposed by the reliability of these indicators as measures of compliance and recidivism (the researchers were limited to official records of reported allegations, which may underestimate actual behaviors and could not differentiate domestic violence from other crimes) and because of the pre- and post-research design, the study findings are open to different interpretations. But the results tentatively suggest that probation violations were reported for about one-third of all probationers under both the old and new court models. Additional arrests for defendants released prior to disposition were even higher under both models, accounting for nearly half of all released defendants. Rates of predisposition repeat arrests did not vary by type of court, but postdisposition arrest rates were double those for cases processed in the general felony court (about one-half versus one-quarter). Limited data were available on the nature of the additional arrest charges, and the researchers could not distinguish domestic violence incidents from other criminal incidents. However, defendants in the presample were most often rearrested for nonviolent felonies, defendants in the FDVC sample were most often rearrested for misdemeanors, and criminal contempt (protection order violation) defendants were most often arrested again for criminal contempt.
- ◆ Criminal history, especially prior convictions for criminal contempt, emerged as one of the most consistent indicators of how well defendants performed in both the predisposition and in postdisposition followup periods. Those with prior criminal convictions, especially for contempt, were less likely to be granted predisposition release, more likely to be jailed for violations after they were released, more likely to be convicted in the current case, and more likely to be arrested on new charges in the predisposition and postdisposition followup periods. These findings suggest that those with prior convictions, especially for criminal contempt, may need the closest monitoring and supervision by the system.

Conclusions: Policy and Operational Challenges

Although the model has thrived and grown, FDVC and its partners still face numerous challenges. FDVC is extremely resource intensive, and it is difficult to provide the breadth and intensity of services specified under the model and demanded by the complexity of the cases while still meeting the Office of Court Administration's standards for speedy case processing. The project director's role is critical in ensuring the success of the model and needs to be sustained over time.

Prosecutors and victim service providers face several operational challenges, including the need to prioritize cases to comply with legal requirements for timely indictments and to provide immediate, comprehensive, and frequent services to all victims. Several initiatives have been

developed to address these concerns. Because of the limited availability of needed community services, victim service providers have restricted options for referring victims.

Community resources that serve batterers are also extremely limited, especially for batterers for whom violence has reached the felony level or is exacerbated by substance abuse or mental health treatment needs.

Finally, defense attorneys have expressed concerns about fundamental issues concerning the court. These include the wisdom of having a specialized docket; the legality of efforts to prevent future offenses, especially predisposition batterer intervention or other treatment orders that seem to imply guilt and impose punishment before a conviction has been reached (a recent ruling upholding this practice, however, has not been challenged by the defense bar); routine use of full rather than limited protection orders (full orders prohibit any contact while limited orders allow some contact); and definitions and procedures that identify cases as domestic violence. The defense bar has also raised other concerns that, although they have little to do with the court model itself, are highlighted in the context of a specialized domestic violence docket. These include the fairness of legislative changes passed shortly before the opening of FDVC that made protection order violations felonies and mandated arrest; exceptions that have been made to evidence exclusion rules in domestic violence cases; and the District Attorney's Office's no-drop evidence-based prosecution policy (the office will proceed with prosecution even without the victim's testimony if it has other evidence with which to go forward).

Implications for Researchers

As the popularity of specialized domestic violence courts grows, additional research should be conducted to document how the approach evolves and evaluate its impact. Further research could benefit from several lessons learned in this study:

- ◆ This study began several years after FDVC started. An evaluation component should be created at the same time a new court is being planned so the evaluation can occur proactively rather than retroactively. This will allow evaluators to develop research materials with which to evaluate the model more thoroughly. In this study, for example, it was not possible to document fully the implementation of defendant monitoring techniques because sufficiently detailed information was not contained in case files and the samples consisted of cases already processed and closed.
- ◆ Because domestic violence is such a notoriously chronic crime and victim safety is a critical concern, evaluators need to address the question of recidivism. It is important to use the most reliable measures of recidivism, going beyond incidents that were reported to and acted on by the authorities. Interviews with victims are the best way to measure both reported and unreported repeat domestic violence (at least against that victim) for which arrests were and were not made. Resources for this critical step were not available for this study, but they should be prioritized for future research efforts.

Implications for Practitioners

Those in other jurisdictions who may be interested in implementing such an approach should consider several key findings from this research. First, it is critical that the leaders and staff of all the community agencies who work with domestic violence cases support the initiative and actively participate in its development and sustenance. Regular meetings and training sessions were critical in coordinating the FDVC model in Kings County.

The exchange of information on a case-level basis is also critical. To hold offenders accountable and protect victims, it is essential that partner agencies provide, obtain, and act on relevant information in a timely fashion. The Kings County initiative created a specialized court position to compile and distribute case information and later developed a secured Internet-based database to enhance the flow of case information among partner agencies.

It would be useful for another jurisdiction seeking to replicate this approach to consider what contextual factors might change along with the new approach to adjudication. For example, in Kings County the District Attorney's Office began indicting a broader range of cases, including less serious cases that would probably have been prosecuted as misdemeanors before FDVC started operation. This affected the number and types of cases the court handled. It would also be important to recognize that felony domestic violence cases are complex and not likely to respond to a "quick fix." Practitioners should anticipate the effects that this resource-intensive approach is likely to have on community resources and case processing time and plan how to balance competing needs for speedy resolution and thorough responses to the issues presented.

The impact evaluation findings suggest that practitioners should not necessarily expect a decrease in the number of probation violations and rearrests for cases adjudicated through a specialized court. As part of preparing for the increased supervision and sanctions specified in the FDVC model, practitioners may want to consider a triage system in which those with prior convictions, especially for violating protection orders, are subject to closer scrutiny than those without prior convictions.