

DOMESTIC VIOLENCE AS A FACTOR IN DETERMINING EQUITABLE DISTRIBUTION AND COUNSEL FEE APPLICATIONS

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I. Counsel Fees for Obtaining Orders of Protection [FCA §842 (f) and DRL §252(f)]

A. The statute: “Any order of protection issued pursuant to this section may require the petitioner or the respondent ... : (f) to pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order if such order is issued or enforced.”

B. FCA §842(f) and DRL §252(f) are identical – orders of protection in a matrimonial case may be sought from the Supreme Court or the Family Court.

For enforcement of Family Court orders, see also FCA §846-a. If there is a finding that the respondent willfully violated the order, counsel fees *may* be awarded. NOTE that pursuant to DRL §237(c), counsel fees *must* be awarded for a violation of an order directing payment of support, maintenance or ED.

C. Counsel fees are available for requests for a TOP. The request should be made in the petition, or, at the latest, when the TOP is issued.

D. The petitioner may be awarded counsel fees ONLY if successful. Because an award is dependent on the outcome of the case, counsel fees are not available to enable a DV survivor to prosecute the case.

BUT SEE S.Z. v. M.K-S.Z., 2003 NYLJ LEXIS 2730 (Family Ct. Nassau Cty. 2003): Mother was the petitioner in a family offense case; Father was the petitioner in a custody matter. In the family offense matter, Mother moved (i) to dismiss Father’s affirmative defenses and counterclaims;

and (ii) for interim counsel fees. Family Court examined Father's pleadings, and struck most of his counterclaims and affirmative defenses. The Court noted that Father's opposition papers lacked an affidavit from the Father himself as well as any documents concerning his income, assets or his own counsel fees. Mother awarded \$3,381.75 in interim counsel fees.

E. If the respondent is successful and no TOP/OP is issued/enforced, the respondent WILL NOT be awarded counsel fees.

1. W.M.S. v. E.J.S., 2004 NYLJ LEXIS 1439, NYLJ March 29, 2004, p. 17 (Family Ct. Nassau Cty. 2004): Respondent successfully moved to dismiss a violation petition. Respondent sought counsel fees pursuant to FCA §842(f) on the ground that she was the prevailing party. Denied, for the following reasons: (i) Respondent failed to submit evidence of her finances; (ii) Respondent's counsel failed to submit any documentation to substantiate the legal work performed; and (iii) the statute's language provides that counsel fees may only be awarded to successful petitioners.

NOTE: If appropriate, successful respondents should consider another means of seeking counsel fees: 22 NYCRR Part 130 – the “sanctions rule” for frivolous conduct.

F. If the family offense petition is withdrawn as part of a settlement, are counsel fees still available?

1. Matter of Linda D. v. Peter D., 152 Misc.2d 564, 577 N.Y.S.2d 354 (Family Ct. Westchester Cty. 1991): In lieu of a full hearing on an alleged violation of an order of protection, the parties consented to a modified and expanded order of protection and the petition was withdrawn. Respondent's counsel argued that pursuant to FCA §841, fees in a petition for enforcement may be awarded “at the conclusion of a dispositional hearing.” The court awarded \$2,500, finding that a settlement is a disposition:

To read and enforce the statute literally would mean that each case must proceed to a

“dispositional hearing” and if not, the petitioner automatically waives any right to seek counsel fees. This court does not interpret that as the intent of the Legislature. This court encourages litigants to settle issues wherever possible. The fact that each contributes to the order often gives further assurance and credence that the order will be honored.

2. Kathryn K. v. Derek S., 199 A.D.3d 415, 153 N.Y.S.3d 848 (1st Dep’t 2021), *lv. to appeal denied*, 38 N.Y.3d 902, 185 N.E.3d 1006, 165 N.Y.S.3d 485 (2022), *reargument denied*, 38 N.Y.3d 1123, 192 N.E.3d 1156, 172 N.Y.S.3d 677 (2022): Violation petition settled via a two-year extension of an OP. After a hearing on petitioner’s motion for counsel fees, Family Court awarded \$28,584. Affirmed on appeal, citing Matter of Linda D. v. Peter D.

G. Can You Get “Fees for Fees”?

While the statute provides that a successful petitioner can be awarded counsel fees for obtaining an order of protection, can that petitioner also be awarded fees for the cost of preparing and prosecuting the counsel fee application itself (i.e., “fees for fees”)?

1. M.M. v. A.A., 74 Misc.3d 202, 160 N.Y.S.3d 759 (Fam. Ct. Kings Cty. 2021): Wife sought an order of protection in Family Court. The hearing started but could not be continued due to the COVID pandemic shutdown. The parties resolved the family offense petition via a two-year order of protection. The Wife reserved her right to apply for counsel fees pursuant to FCA §842(f).

Wife moved for a fee award in excess of \$50,000. Husband’s counsel opposed, arguing that the fees were excessive for several reasons. The Court granted the Wife’s motion, holding that Husband was liable for all fees that wife expended to obtain the order of protection, and set the matter down for a hearing. After the hearing, the Court held:

- a. The public interest is served by allowing a successful petitioner to recoup “fees for fees”;

- b. Wife's counsel's fees were reduced due to double-billing, for time spent drafting a second petition that was never filed, and for services that were insufficiently described in Wife's invoices;
- c. While Husband was the monied spouse, Wife was "not destitute" and could afford to pay for some of her counsel fees.

Of the over \$50,000 requested, \$34,528 was awarded.

H. Criteria for a successful fee application

FCA §842(f) is silent regarding under what circumstances fees are to be awarded, or the amount of the fees. The plain language suggests that if the petitioner is successful, the Family Court has discretion to award fees without regard to any other factor, including financial need.

However, case law has adopted some of the factors used by the courts when determining counsel fee applications in matrimonial cases:

1. The parties' respective financial positions: petitioner does not necessarily have to be the less-monied party.
 - a. Savas v. Bruen, 139 A.D.3d 737, 31 N.Y.S.3d 149 (2d Dep't 2016): After a dispositional hearing in which petitioner established that respondent violated a TOP, respondent was ordered to pay \$7,500 in counsel fees. Fact that petitioner's mother paid for petitioner's attorney did not render her ineligible for a counsel fee award. Family Court considered respondent's indigence by reducing the fee award by 50% and giving him two years to pay.
 - b. Birch v. Sayegh, 9 A.D.3d 514, 779 N.Y.S.2d 310 (3d Dep't 2004): Family Court considered respondent's ability to pay via his application for assigned counsel, which contained his financial information. Fee award that discounted the petitioner's fee award by 15% and gave respondent six months to pay affirmed.

2. The nature and extent of the services rendered, complexity of the issues involved, and counsel's experience, ability and reputation.
 - a. HINT: this means you must submit your retainer agreement, invoices and curriculum vitae.
 - b. M.M. v. A.A., 74 Misc.3d 202, 160 N.Y.S.3d 759 (Family Ct. Kings Cty. 2021): Mother petitioned for a TOP and counsel fees. Stay-away TOP issued, then court was shut down due to COVID. Two months later, the parties resolved the matter via a two-year OP. Mother then moved for counsel fees in the amount of \$50,767.50. Family Court awarded \$34,527.58, finding that some billing was excessive, was for an amended petition that was never filed, or was double-billed.
3. The conduct of the parties during the pendency of the case.
 - a. Christy v. Christy, 182 A.D.3d 596, 120 N.Y.S.3d 805 (2d Dep't 2020): After a hearing, Family Court issued an OP against the father. The mother then moved for counsel fees pursuant to FCA §842(f). The Family Court denied the motion on the grounds that both parties delayed the case and contributed to the amount of counsel fees. Affirmed on appeal:

In determining whether to award counsel fees, the court may consider “the parties' ability to pay, the nature and extent of the services rendered, the complexity of the issues involved, and counsel's experience, ability, and reputation” (Matter of Grald v. Grald, 33 A.D.3d at 923, 824 N.Y.S.2d 100), as well as “the parties' positions and actions during the litigation” (Matter of Herschbein v. Herschbein, 308 A.D.2d 585, 585, 764 N.Y.S.2d 874). Here, upon considering all of the circumstances of this case, including the conduct of the parties, we agree with the Family Court's determination denying the petitioner's motion pursuant to Family Court Act § 842(f) for an award of counsel

fees (*see Matter of Barcia v. Barcia*, 90 A.D.3d at 921, 934 N.Y.S.2d 812).

4. The court must hold a hearing to determine the reasonable value of the attorney's services.
 - a. *Rogers v. Rogers*, 161 A.D.2d 766, 556 N.Y.S.2d 114 (2d Dep't 1990): an affirmation of counsel regarding the amount of the fees is insufficient. Establishment of the reasonable amount and nature of the legal services must be established in an adversarial hearing.
 - b. *Hallissey v. Hallissey*, 261 A.D.2d 544, 690 N.Y.S.2d 603 (2d Dep't 1999): Although the petitioner was properly awarded counsel fees of \$1,000 after hearing on the family offense, there was no testimony establishing that the amount ordered was justified. Remanded for a hearing on counsel fees.
 - c. *Birch v. Sayegh*, 9 A.D.3d 514, 779 N.Y.S.2d 310 (3d Dep't 2004): issue of counsel fees was litigated during the hearing on the violation of the OP. Respondent father had the opportunity to question former wife regarding counsel fees, did not object to the admission of counsel's affirmation as evidence, and did not present any evidence of his own. Award of fees to former wife affirmed.
 - d. *Hoyt v. Hoyt*, 18 A.D.3d 1055, 795 N.Y.S.2d 766 (3d Dep't 2005): In an enforcement case involving failure to comply with child support order, former husband had the opportunity to question former wife regarding counsel fees, and did not object to the admission of counsel's affirmation as evidence. Award of fees to former wife affirmed.

II. DV as a Factor in Maintenance and Equitable Distribution Cases

A. Temporary Maintenance [DRL §236B (5-a)(b)(1)(g)] and Post-Divorce Maintenance [§236B (6)(e)(1)(g)]

Maintenance is awarded up to the statutory cap; however, if the court finds that that amount is unjust or inappropriate, the court is to consider a number of factors (13 for temporary maintenance, 15 for post-judgment maintenance) to either increase or decrease the award. In both statutes, factor (g) is:

(g) acts by one party against another that have inhibited or continue to inhibit a party's earning capacity or ability to obtain meaningful employment. Such acts include but are not limited to acts of domestic violence as provided in section four hundred fifty-nine-a of the social services law.

B. Equitable Distribution

1. Effective May 3, 2020: Acts of DV are a factor to be considered in ED determinations.

DRL §236 B (5)(d)(14): whether either party has committed an act or acts of domestic violence, as described in subdivision one of section four hundred fifty-nine-a of the social services law, against the other party and the nature, extent, duration and impact of such act or acts.

2. Section 459-a (1) of the Social Services Law provides in relevant part:

As used in this article: 1. "Victim of domestic violence" means any person over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, strangulation, identity theft, grand larceny or coercion; and

- (i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and
- (ii) such act or acts are or are alleged to have been committed by a family or household member.

2. "Family or household members" mean the following individuals:

- (a) persons related by consanguinity or affinity;
- (b) persons legally married to one another;
- (c) persons formerly married to one another regardless of whether they still reside in the same household;
- (d) persons who have a child in common regardless of whether such persons are married or have lived together at any time;
- (e) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household;
- (f) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; or
- (g) any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.

3. For a thorough description of the types of non-physical conduct that can constitute domestic violence, see

Matter of Aisha R., 79 Misc.3d 1106, 190 N.Y.S.3d 657 (Fam. Ct. Kings Cty. 2023).

4. Prior to the 2020 amendment, there was a body of case law holding that in instances of domestic violence (often referred to as “marital fault”), the court could use its discretion and equitable power to grant, deny or alter equitable distribution or maintenance only in cases where the domestic violence was so egregious as to “shock the conscience.”
 - a. O’Brien v. O’Brien, 66 N.Y.2d 576, 489 N.E.2d 712, 498 N.Y.S.2d 743 (1985).
 - b. Havell v. Islam, 186 Misc.2d 726, 718 N.Y.S.2d 807 (Sup. Ct. N.Y. Cty. 2000); *aff’d*, 301 A.D.2d 339, 751 N.Y.S.2d 449 (1st dep’t 2002); *lv. to appeal denied*, 100 N.Y.2d 505, 795 N.E.2d 37, 763 N.Y.S.2d 811 (Table) (2003).
 - c. Linda G. v. James G., 156 A.D.3d 25, 64 N.Y.S.3d 17 (1st Dep’t 2017)
5. The first case to interpret and apply the 2020 amendment was J.N. v. T.N., 77 Misc.3d 894, 182 N.Y.S.3d 497 (Sup. Ct. N.Y. Cty. 2022) (Waterman-Marshall, J.):

In a divorce case, Wife was the monied spouse. Husband’s conduct included severe and pervasive verbal and emotional abuse of Wife throughout the marriage and during the litigation, including his non-stop efforts to destroy Wife’s professional career in direct violation of a confidentiality order. The Court found Husband’s conduct to constitute domestic violence. Wife received 85% of most of the marital assets.

6. Ab.P. v. An.P., 80 Misc.3d 1222(A), 196 N.Y.S.3d 918 (Sup. Ct. Westchester Cty. 2023) (Hyer, J.):
Husband was the monied spouse. During the three-year litigation, Husband was represented by three different lawyers, one private pay and the others court-appointed. All successfully moved to be relieved, citing Husband’s failure to cooperate and insistence that they

take unreasonable and untenable legal positions. After Wife successfully moved for exclusive use and occupancy of the marital residence and for a TOP, the Court decided to appoint a GAL for Husband. This GAL successfully moved to be relieved, and a second GAL was appointed. That same day, Husband moved for the judge to recuse himself on the ground that he was unprofessional and prejudiced against him on the basis of gender. Husband reported the judge to the Office of Judicial Conduct, accused him of drinking, and of allowing Wife's attorneys to file fraudulent documents. Meanwhile, Husband violated the TOP by impermissibly contacting Wife. He attacked the judge, the attorneys and the Wife using "pejorative, offensive and combative language," all of which appears in the decision. Husband also posted his views in a You-Tube video and on other social media, which the Court found to be domestic violence in that it was an intent to harm Wife professionally and Wife and children financially.

The Court awarded Wife maintenance in excess of the presumptively correct amount, and for a duration at the top of the statutory range.

As to ED, the assets and debts were divided equally except that Wife was to receive 60% of the net sale proceeds of the marital residence, if sold (Court also granted Wife a right of first refusal). Wife also received the contents of the marital residence except for Husband's personal effects.

7. M.R. v. D.R., 82 Misc.3d 1213(a), 2024 NY Slip Op 50295(U) (Sup. Ct. Westchester Cty. 2024) (Hyer, J.): as in Ab.P. v. An.P., the Court found that Husband's threats to Wife and her attorneys, and his violation of multiple court orders, constituted domestic violence. Equitable distribution was similar to Ab.P. v. An.P.
8. G.R. v. S. T., 83 Misc.3d 1238(A), 213 N.Y.S.3d 705 (Table) (Sup. Ct. N.Y. Cty 2024) (Waterman-Marshall, J.): After a custody trial, the Court found overwhelming evidence of Husband's physical, verbal, emotional and financial abuse of Wife and the children, which the Court found was the law of the case. Finding that Husband's behavior "fits squarely" within Factor 14, the

Court awarded Wife 50% of all assets, using Wife's valuations.

9. Other interesting cases:

- a. L.W. v. J.U., 83 Misc.3d 1238(A), 213 N.Y.S.3d 706 (Table) (Sup. Ct. Westchester Cty. 202) (Hyer, J.): Former Wife's family offense petition was consolidated with her post-judgment action to modify custody. Court found that former Husband's sending Wife inappropriate and abusive messages on Our Family Wizard constituted the family offense of harassment in the second degree. Husband also filed several unfounded CPS complaints against Wife. Despite the child's expressed wish to reside with Husband, custody modified so as to give Wife sole legal and physical custody of the parties' child, with Husband to have supervised therapeutic visitation for a period of four months, after which Husband could move to modify the new custody order.
- b. A.S. v. A.B., 215 N.Y.S.3d 731 (Sup. Ct. Kings Cty. 2024) (Sunshine, J.): Wife subpoenaed non-party GPS tracking device company, believing that Husband illegally placed the tracking device on her car. Husband moved to quash. The Court found that if true, placement of the GPS tracker constituted a family offense of stalking in the fourth degree [Penal Law §120.45 (2)]. As such it would fall within Factor 14 and would be grounds for extra maintenance. Motion to quash denied.

III. Is DV a Factor in Counsel Fee Awards?

1. J.N. v. T.N., 77 Misc.3d 894, 182 N.Y.S.3d 497 (Sup. Ct. N.Y. Cty. 2022) (Waterman-Marshall, J.): Wife was the monied spouse and had advanced Husband \$200,000 in pendente lite counsel fees. After the Court found that Husband engaged in numerous acts of domestic violence during both the marriage and the litigation, and in light of his dilatory conduct during the litigation, Husband was ordered to pay all of his own counsel fees. In addition,

Wife's ED obligation was reduced by the entire \$200,000 she had advanced, and Husband was directed to pay her counsel \$50,000, to be credited against his ED award. [NOTE: Wife's counsel fees exceeded \$2.6 million.]

2. G.R. v. S. T., 83 Misc.3d 1238(A), 213 N.Y.S.3d 705 (Table) (Sup. Ct. N.Y. Cty 2024) (Waterman-Marshall, J.): \$906,776 awarded to Wife, representing all of Wife's unpaid counsel fees.
3. Ab.P. v. An.P., 80 Misc.3d 1222(A), 196 N.Y.S.3d 918 (Sup. Ct. Westchester Cty. 2023) (Hyer, J.): husband directed to pay one-half of Wife's unpaid counsel fees of \$44,536.
4. M.R. v. D.R., 82 Misc.3d 1213(a), 2024 NY Slip Op 50295(U) (Sup. Ct. Westchester Cty. 2024) (Hyer, J.): Wife requested counsel fees of \$283,000; Court awarded \$269,000.



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Introduction

The Integrated Domestic Violence Court (IDV) is a problem-solving court dedicated to a “one family – one judge” model. The IDV model, pioneered by the New York State Court System, provides more informed judicial decision making and greater consistency in court orders, while reducing the number of court appearances for litigants. IDV Courts serve families by allowing a judge to hear multiple case types – criminal, family and matrimonial cases. To streamline the process and ensure effective case resolution, the IDV Court developed the “one family – one judge” model. The goals of the IDV Court include providing integrated services to families, increased offender accountability, enhanced victim safety, improved court efficiency and consistent judicial decision making while protecting the rights of each litigant.

National Mentor Court

In 2013, in recognition of the court’s commitment to excellence, the Kings County IDV court was designated a National Mentor Court by the US Department of Justice’s Office on Violence Against Women (OVW). The Kings County IDV court was one of three criminal and civil domestic violence courts, joining courts in Idaho and Texas, initially selected to serve as a model for other jurisdictions considering the development of a domestic violence or integrated domestic violence court. The peer-to-peer support of the mentor program is intended to improve responses to domestic violence by providing technical support, sharing best practices, and legal and operational information with interested jurisdictions across the country. In November 2017, OVW announced two additional mentor court sites in New York State, with one in Erie County and the other in the Village of Spring Valley. New York is the only state in the country with three courts recognized by OVW as national mentor sites.

As a mentor court, the Kings County IDV Court has hosted court teams and domestic violence advocates from across the United States and abroad, including from thirteen states, one United States territory and ten foreign countries. The mentor court program allows broad dissemination of best practices standards, lessons learned, and discussion of innovations with judges, court personnel and local stakeholders. These include the district attorney, criminal defense providers, the private defense bar, the police department, the department of probation, civil legal service providers, domestic violence agencies, and abusive partner intervention programs.

This project was supported by Grant No. 2013-FL-AX-0001 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Development of the IDV Court Model in New York State and Kings County

Integrated Domestic Violence (IDV) Courts in New York State were developed in 2001 to improve access to justice for domestic violence victims and their families. The IDV model simplifies and improves judicial oversight of domestic violence cases. In New York State family violence cases may be heard in multiple courts. Unlike many jurisdictions, New York criminal and civil courts can issue orders of protection simultaneously in domestic violence cases. Prior to the creation of the integrated court response to domestic violence, victims and their families appeared in different courts before different judges to resolve the many legal issues faced by the family. Requiring appearances before different judges in different courts caused unnecessary confusion and delay, the possibility of conflicting court orders, and required excessive or duplicative court appearances for litigants. In each of these situations, different judges would handle one piece of a larger complex family dynamic and in some instances, might not be in possession of all the pertinent facts and how an individual decision or order could impact the potential risk of future violence.

The IDV model was designed to address these issues in domestic violence cases by limiting court appearances and consolidating cases before a single judge. An IDV judge has the authority to adjudicate all the related matters involving the family. Beyond improving court processes for litigants, the IDV model has the additional advantage of centralizing resources for victim services and programs for defendants. Through the integration of court services and the collaboration of stakeholders, IDV Courts promote victim safety and defendant accountability.

The IDV Model synthesizes practices that have emerged based upon research, experience and an ongoing analysis of how New York Courts process domestic violence cases. Presently there are 39 IDV courts active across New York State. These courts heard over 8,000 new cases in 2017.

The Kings County IDV court, created in 2006, handles one of the highest volume dockets in the State. The Honorable Esther M. Morgenstern, Justice of the Supreme Court, presides in this IDV



Justice Esther Morgenstern

Court. Justice Morgenstern, whose prior experience included presiding over the Queens IDV model project and serving as a judge in both Family and Criminal Court, handles every aspect of a family's case from the initial arrest of a defendant in a domestic violence case through cases that involve custody, visitation issues, orders of protection, paternity, guardianship and support where a matrimonial is involved. In 2017, over 200 new families with over 1,500 cases appeared in the Kings County IDV part.

In Kings County IDV Court, the judge and court staff work closely with community stakeholders to assist families. These stakeholders include the New York City's Mayor's Office to Combat Domestic Violence, the Brooklyn Family Justice Center, civil and criminal legal service providers, the King's County District Attorney's Office, victim advocates, social service agencies, the Children's Law Center and abusive partner intervention programs.



In 2016, Kings County IDV Justice Esther Morgenstern was invited by the Human Rights Commission of South Korea to present to judges, attorneys, police officers, civil legal service providers, and law students at the conference on the Prevention of Domestic Violence in Seoul, South Korea. The goal of the symposium was to introduce the Integrate Domestic Violence court model to the South Korean legal community and to identify and improve South Korea’s criminal justice system’s response to domestic violence.

Key Components of the Kings County IDV Court

The Kings County IDV Court takes a comprehensive approach to enhancing victim safety and ensuring offender accountability. A key to the success of the Kings County IDV Court in meeting this mission is the specialized training of the entire court staff and attendant stakeholders. Each court participant has extensive training and expertise on the dynamics of domestic violence. For instance, unlike other civil or criminal court parts where court officers rotate assignments, IDV court officers are an integral part of the IDV team and receive training on domestic violence and the control tactics and psychological pressure that offenders use to intimidate, deter or upset a victim in court. These officers are also sensitive to the myriad reasons a victim and defendant may decide to reconcile and appear together in court despite the adversarial nature of the proceeding and the existence of the order of protection.

In addition to regular training on domestic violence issues, court staff and stakeholders participate regularly in court-sponsored educational programs on risk assessment and procedural justice, trauma informed counseling for victims and children and other emerging topics. To foster an ongoing dialogue, stakeholder meetings are held quarterly throughout the year. Between meetings stakeholders are encouraged to provide ongoing feedback to the IDV Court so that any issues or concerns may be considered and addressed at the earliest possible moment. New stakeholders are invited to participate upon entering into a commitment to work with the court. Community outreach is also conducted and is aimed at encouraging additional organizations to participate in IDV courts, educate the public about the benefits of IDV courts, and to encourage the public to support the efforts of the stakeholders already participating in the Court. Through this collaboration and ongoing communication, the IDV Court promotes just outcomes for litigants and works towards its mission of enhancing safety for families and offender accountability.

Victim Services

The Kings County IDV collaboration with community advocacy organizations increases access to victim services and enhances the safety of families with IDV cases. These partnerships allow victims to develop safety plans during the pendency of IDV matters. It also provides litigants with crucial information for making informed legal decisions. The hub of victim services in Kings County is the Brooklyn Family Justice Center (FJC), which is in close proximity to the courthouse. The FJC is a partnership of the New York City Mayor's Office to Combat Domestic Violence and the Kings County District Attorney's Office. To complement the integration of court proceedings in IDV and to aid families in crisis, the FJC provides comprehensive family services in one location. Co-located at the FJC are organizations to assist with the civil legal, counseling needs and other supportive advocacy interests of victims. Services, which are free and confidential, are offered in a variety of languages to meet the diverse needs of Kings County residents. Victims can meet with a prosecutor, petition for an order of protection, receive legal and immigration advice on housing and custody issues, speak with a counselor, and apply for housing and financial assistance - all while their children play safely in the supervised children's playroom. Representatives from City and State agencies, community and faith-based organizations, and universities provide on-site support to the FJC. Its close association with the Kings County IDV ensures that victims with cases in the IDV Court will have immediate and cost-free access to these critical services.

Another important component of the Kings County IDV that enhances victim safety is the availability of free civil legal services. Legal services providers, such as Safe Horizon's Law Project, South Brooklyn Legal Services, Sanctuary for Families Center for Battered Women's Legal Services, New York Legal Assistance Group, and the Urban Justice Center, represent victims who file petitions for custody, child support and orders of protection. These legal service providers are also connected to a network of other services that provide victims with immigration and other civil legal service assistance.



The Integrated Domestic Violence Court staff left to right: Angel Rosado – Court Officer, Sean O'Malley – Court Officer, Philip Hudson – Associate Court Clerk, Jenise Arnao Plenty – Senior Court Clerk, IDV Coordinator, Deiserae Stansbury – Senior Court Clerk, Hon. Esther M. Morgenstern, Matthew J. Schwartz, Principal Court Attorney, Jean-Bernard Surena, Senior Court Clerk, IDV Coordinator, Natasha Sobers – Senior Court Office Assistant, Martha Velasquez – Resource Coordinator, Jason Valentine – Sergeant.



(left to right) Hon. Esther M. Morgenstern, Deiserae Stansbury – Senior Court Clerk, Jenise Arnao Plenty – Senior Court Clerk, IDV Coordinator

Accountability

To ensure appropriate sanctions and levels of accountability, the Kings County IDV Court focuses on compliance with imposed sentences and other court orders (such as orders of protection and pre-trial conditions of release). The IDV judge and court personnel utilize a number of strategies to monitor defendants appearing in the IDV Court and reduce the risk of further violence.

A variety of escalating sanctions are used by the Court to encourage compliance. These types of evidence-based graduated sanctions assist in maintaining oversight over defendants who risk re-offense and may pose an on-going danger to the victim and other family members. In most cases, the IDV Court schedules a monthly compliance review. If a defendant meets the conditions of a sentence, court compliance will be reduced over time to less frequent in-person court appearances. Scheduling and frequency of compliance dates are determined on a case-by-case basis, taking into consideration the seriousness of the allegations, a defendant's employment status, attendance at school and programs, and other individualized case-specific facts. Probation liaisons and representatives from abusive partner intervention programs or treatment providers also participate regularly at these compliance reviews. For defendants sentenced to probation, the department of probation provides regular status updates. When a defendant is ordered to complete an evaluation or a program the service providers will also provide reports for compliance to our resource coordinator.

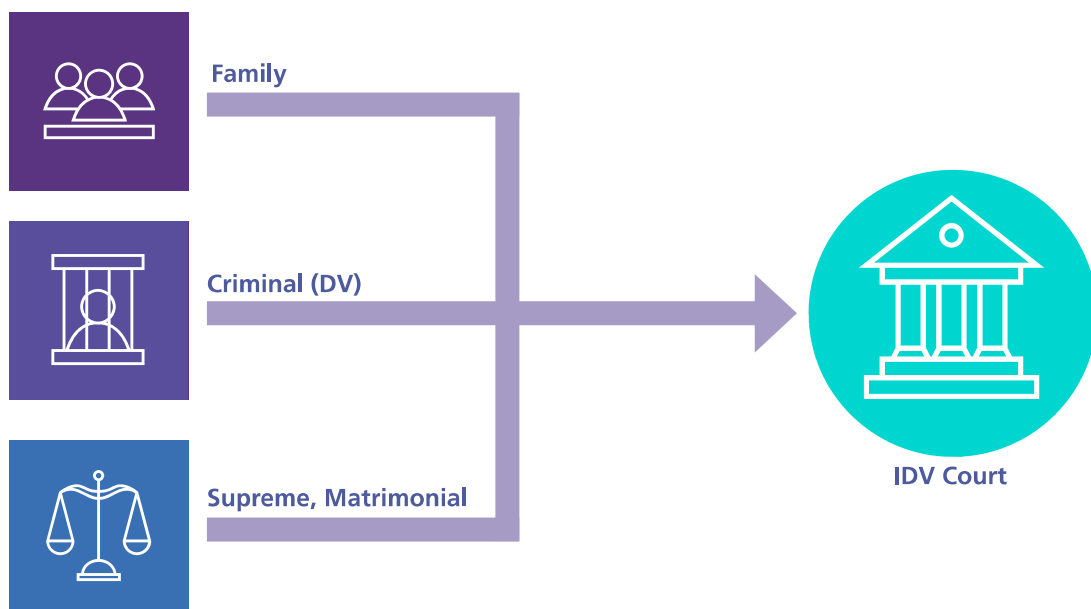
To maintain clear and effective communication within the IDV Court, the IDV Resource Coordinator regularly communicates with programs, attorneys and defendants. The IDV Resource Coordinator provides reports to the Court and reviews reports prior to court compliance reviews to ensure that the Court is fully informed about a defendant's progress. This preparation and review assists the IDV judge in identifying appropriate interventions, monitoring and sanctions. It also enables the Court to increase sanctions or court appearances immediately upon a report of non-compliance without the need of waiting for a previously scheduled adjourn date. The IDV Resource Coordinator also carefully reviews proposed programs to ensure that the agency complies with protocols for domestic violence cases, has a system in place for communicating compliance accurately and

expeditiously to the Court, and maintains recognized standards of care in substance abuse and mental health cases. Through regular on-site visits at community-based organizations and frequent communication with agency representatives the Resource Coordinator can recommend to the Court the types of programming best suited for an individual defendant's needs. The Court also considers recommendations from the District Attorney's Office who has extensive knowledge of the defendant's needs based upon investigation.

Another aspect of the IDV Court that assists in developing appropriate defendant sanctions involves the assignment of dedicated Assistant District Attorneys (ADA) by the Kings County District Attorney's Office to the IDV Court. The ADAs appear in all criminal cases calendared in the IDV Court and have an in-depth familiarity with the facts of the case and a defendant's history of domestic violence offenses. These prosecutors work in the District Attorney's Domestic Violence Bureau and are carefully selected to work in the IDV Court after intensive training. These prosecutors are also supervised by an experienced prosecutor who works as part of the IDV team. These prosecutors appreciate and understand how the dynamics of domestic violence impact a criminal prosecution and can best prioritize cases where defendants engage in serious and threatening ongoing criminal conduct.

Defense attorneys receive specialized domestic violence training and are cross-trained to handle both Family Court and Criminal cases. Most defendants in the Kings County IDV Court are represented by criminal legal service providers, including The Legal Aid Society Criminal Defense Division and Brooklyn Defenders Services. These providers have dedicated IDV attorneys and staff. Their attorneys are cross-trained to handle both Family Court and criminal matters and to give legal advice based on a global understanding of all pending cases. Cross-training allows attorneys to fully advise defendants on the impact of a criminal conviction in a related custody or visitation matter. Attorneys and staff also assist defendants with accessing services to address underlying issues, such as parenting skills, mental health issues and substance abuse. Attorneys are also well-versed on the immigration or other collateral consequences of a plea or sentence. For those defendants represented by private practitioners, domestic violence training is available through the IDV Court and service providers.

Integrated Domestic Violence Court Operations in the Kings County IDV





Hon. Esther M. Morgenstern and Sergeant Jason Valentine

Identifying Eligible Cases

The key criteria for case eligibility in the IDV Court is a criminal charge of domestic violence. For a family’s matter to be IDV eligible there must, at a minimum, be at least one criminal case pending. Each day, newly-charged criminal cases in Kings County are reviewed by IDV Court clerks and other court staff in the criminal court to flag cases eligible for IDV. This is done by reviewing the Domestic Violence Registry to assess if there is a related pending family court matter. Once a case is transferred to the IDV court, the IDV Court carefully tracks court filings to ensure that all new actions are consolidated. In addition, pending DV criminal cases that IDV-eligible continue to be tracked. In these cases, if a party files for custody or visitation or a divorce after an initial arraignment on a criminal charge, the criminal and family law matters will be transferred to the IDV court for final resolution.

To assist with this matching process court clerks, conduct electronic searches in the Family Court’s case management system, UCMS Family. Court clerks also review the UCS’s Order of Protection Registry to identify whether a Family or Supreme Court has issued an order of protection relating to the same parties. The Office of Policy and Planning (OPP) of the Unified Court System also developed a specialized IDV case matching system that monitors family and criminal court case management systems for potential IDV cases.

Family Court and Supreme Court matrimonial clerks also conduct a separate screening process. When an individual requests judicial intervention in a matrimonial case or petitions in Family Court for an order of protection, custody or visitation, the Domestic Violence Registry is checked for active orders of protection. If this registry check indicates an active Kings County criminal order of

protection involving the same parties, the court clerks also screen for any open criminal cases. If there are overlapping criminal and civil cases the Family Court and/or Supreme Court liaisons to the IDV Court will refer the family for transfer to the IDV part.

Final decision on whether a case should be transferred to the Kings County IDV is within the discretion of the IDV Court judge. While most eligible cases are consolidated into the IDV Court, the individual circumstances of a family are always considered. For instance, a contested matrimonial case scheduled for trial is unlikely to be transferred to IDV Court even if one of the parties is arrested for a crime of domestic violence, as a transfer would cause unnecessary delay. Additionally, the IDV Court does not hear Abuse and Neglect cases. Thus, if an Abuse or Neglect Petition is filed in Family Court prior to the transfer of a Family Court or matrimonial action, the matter may be deemed ineligible for the IDV Court. If an Abuse or Neglect Petition is filed in Family Court during the course of a Family Court or matrimonial action that has already been deemed IDV-eligible, the IDV Court will then no longer hear issues of custody and visitation as those issues are subject to the Family Court Judge in the Neglect and Abuse matter.

To effectuate the transfer, the IDV judge issues a transfer order consolidating all appropriate proceedings into the IDV Court. After the order is issued, every attempt is made to calendar the consolidated cases on the same date for an initial appearance before the IDV judge. Once a case is transferred to the IDV Court, the IDV judge presides over all aspects of the proceedings. The IDV judge also oversees post-judgment matters such as probation violations, petitions for modifications to custody and contempt applications, and hears other criminal cases involving the same defendant (such as a charge of driving while under the influence of alcohol, possession of a weapon or possession of a controlled substance).



Kings County Supreme Court, 18th Floor Lobby



Brooklyn Family Court Children's Center at Safe Horizon.

Kings County IDV Court Specialized Protocol for Child Support

Child support proceedings often present an additional set of challenges for domestic violence victims. In New York State, child support is usually presided over by a Support Magistrate who presides in Family Court. Appearances in court for support hearings are heard separately from other family court matters, such as hearings for orders of protection, custody or visitation. This critically-important process does, however, require additional court appearances for litigants. For domestic violence victims, the process may be difficult since the Support Magistrate often may not be aware of the dynamics of abuse involved with the case. These types of dynamics can lead to financial abuse and manipulation that effects the calculation and collection of support payments.

In Family Court cases that are heard in the Kings County IDV Court, a specialized Support Magistrate is assigned to coordinate child support proceedings with the other proceedings related to the Family Court matters. The IDV Support Magistrate works closely with a Child Support Enforcement Unit (CSEU) that processes support orders and tracks payments. CSEU also provides information on parties that violate support orders and will employ strategies to assist with compliance, such as wage garnishment or suspension of a driver's license. In matrimonial cases that are heard in the Kings County IDV Court, all issues relating to child support remain in the IDV Court.

The Kings County IDV Judge and Kings County IDV Support Magistrate exchange information concerning the content and status of proceedings prior to the scheduled court appearance. The IDV Resource Coordinator assists in facilitating this process. Every effort is made to minimize the number of court dates on which a family must appear. Therefore, where possible, IDV Support proceedings are scheduled and adjourned for the same day as related IDV cases. IDV staff ensure that support information is entered into the IDV data base so that the IDV Court maintains a complete record of the family's cases. Further, since litigants are entitled to file objections to a judge under Article 4 of the New York Family Court Act, the IDV protocol ensures that objections are scheduled before the IDV judge rather than an unrelated judge.

Preserving the Legal Integrity of Separate Proceedings

Protection of the rights of all litigants is of critical importance to IDV Courts. New York laws involve different burdens of proof, evidentiary rules and confidentiality restrictions for the various proceedings that are heard before an IDV judge. Some of the most complex issues regarding confidentiality may arise in situations where a matrimonial or family law matter involves case records generally not available to criminal attorneys or the public. These types of records often contain medical, mental health, substance abuse or educational information that is confidential by law. Therefore, IDV Courts all maintain procedures to prevent disclosure of confidential family law records in a criminal trial where courtrooms and proceedings are open to the public.

In developing IDV Courts across New York State, the UCS Office of Policy and Planning developed methods for record keeping and protocols for court calendaring to maintain the integrity of each case type. Calendars are called by court type, and cases are heard and maintained in separate files to ensure that the different burdens of proof, legal standards and rules governing confidentiality and sealing of records for each case type are maintained.

Each case is adjudicated in accordance with provisions applicable to the individual proceeding, Lawyers only appear in the cases they participate in to ensure proper legal procedures. At the same time, IDV Courts maintain procedures to reduce the number of court appearances for a family. Typically, a family's cases will be heard sequentially to maximize judicial efficiency, reduce the time litigants spend in court and facilitate accurate recordkeeping. To track families across various case management systems, the IDV court assigns a unique IDV identifier to each family. All IDV matters, regardless of court of origin, are referenced by the IDV numbers.



The court-based Children's Center provides a comfortable, supervised environment for children. Supervised by trained professionals the Children's Center is literacy-rich and provides positive interventions for children whose parents have pending court cases.



Safe Horizon's Family Court Reception Center in Kings County offers advocacy services for families impacted by domestic violence.

Co-located Services and Court Facilities

One of the unique partnerships that the Kings County IDV Court has developed is with Safe Horizon, the largest non-profit victim services agency in the US. The Kings County Supreme and Family Court's Children's Center, funded by the NYS Unified Court System's Statewide Children's Center Program and operated by Safe Horizon, provides free, educationally-oriented day care in an emotionally supportive setting to children from six weeks through 12 years of age while their caregiver's attend to court business. Children's Center staff also provide linkages to critical community services for children and families. Safe Horizons also operates a Supervised Visitation Program on-site for families with domestic violence cases. The visitation occurs in the Children's Center after court hours, with court officers providing screening and overseeing site safety. Two separate entrances to the Children's Center allow defendants, children and victims to enter and exit separately. The Supervised Visitation Program staff includes experienced personnel who have an extensive knowledge in handling supervised visitation in domestic violence cases. Scheduling supervised visitation after court hours also assists working parents. The Children's Center is fully equipped with toys and necessities for young infants through older school-aged children. Supervised visitation affords children impacted by family violence the opportunity to engage with a parent in a calm and safe environment. There is no cost for these services.

The Kings County IDV Courtroom was designed to accommodate criminal, civil and family law proceedings. A detention area enables the Court to hear criminal cases involving incarcerated defendants. A robing room adjacent to the courtroom allows for court conferences and in camera testimony of children. An IDV office area allows staff to work directly outside the courtroom and for files to be readily accessed. The public areas have numerous attorney-client interview rooms and dedicated safe witness waiting areas.

IDV Court services are targeted to meet the multi-cultural needs of Brooklyn's diverse ethnicities. In 2017 the Unified Court System's Office of Language supported interpreting services in 124 languages. Bi-lingual orders of protection are available in Spanish, Chinese, Russian and Arabic. The number of languages available in bi-lingual format continues to expand. All the Unified Court System's official court interpreters have received specialized training interacting with victims and offenders in situations of domestic violence and sexual assault.



Kings County Family Court

The Office of Policy and Planning

The Kings County IDV Court and New York’s other IDV Courts receive ongoing support and technical assistance through the Unified Court System’s Office of Policy and Planning. OPP, under the guidance of the Honorable Sherry Klein Heitler, creates standardized policies for courts statewide, ensures best practice standards, and provides legal and operational assistance on domestic violence, sexual assault, stalking, and dating violence matters. OPP aids the state’s IDV Courts in responding effectively to these cases with the goal of promoting victim safety, enhancing the provision of services to victims, families and offenders and monitoring compliance with court mandates. OPP attorneys and staff provide counsel and training to IDV Courts on emerging legal, procedural and operational issues involving family violence. OPP personnel are available for consultation on new programs and initiatives and provide training on domestic violence to judges and court staff statewide. OPP also aids with grant applications and projects for courts in every judicial district in New York.

Conclusion

Since 2001, the Unified Court System has been at the forefront of improving access to justice for families impacted by domestic violence. The designation of Kings County IDV and other sites in New York State as National Mentor Courts is a recognition of the tireless dedication of the judges and court personnel of the Unified Court System to resolve the myriad legal issues created by domestic violence while enhancing victim safety and holding offenders accountable.

Kings County Integrated Domestic Violence Court Staff & Key Resources

Hon. Esther M. Morgenstern
Presiding Judge

Jean Bernard Surena
Senior Court Clerk, IDV Coordinator

Matthew Schwartz, Esq.
Law Clerk

Deiserae Stansbury
Senior Court Clerk

Martha Velasquez, LMSW
Resource Coordinator

Natasha Sobers
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James Fish
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Philip Hudson
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Key Resources

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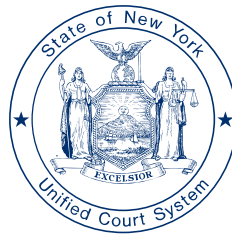
The Legal Aid Society
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Phone: 718-237-2000

District Attorney
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Safe Horizon
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The Children's Law Center
44 Court Street, 11th Floor
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Brooklyn Defender Services
177 Livingston Street, FLR 11
Phone: 718-254-0700



HON. JANET DIFIORE

CHIEF JUDGE OF THE STATE OF NEW YORK

HON. LAWRENCE K. MARKS

CHIEF ADMINISTRATIVE JUDGE OF THE STATE OF NEW YORK

HON. SHERRY KLEIN HEITLER

CHIEF OF POLICY AND PLANNING

HON. ESTHER M. MORGENSTERN

PRESIDING JUDGE, KINGS COUNTY INTEGRATED DOMESTIC VIOLENCE COURT

INTEGRATED DOMESTIC VIOLENCE COURT

Protocols for Sustainability 2021



STATE OF NEW YORK SUPREME COURT
KINGS COUNTY

Protocols for Sustainability 2021

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Introduction

The New York State Integrated Domestic Violence (IDV) Court Model is a synthesis of core principles that have emerged based upon research, experience, best practices, and an analysis of the court system's current methods of addressing domestic violence. Utilizing the "one family, one judge" model, the IDV Court coordinates proceedings for families affected by domestic violence by bringing related criminal and civil cases involving the family before a single judge and providing comprehensive information about family issues to aid in judicial decision-making. Court resources and services are consolidated to address the many needs of the families being served.

The IDV Court is Designed to Promote:

1. Informed judicial decision-making by obtaining comprehensive and up-to-date information on all issues involving the family;
2. Protection of the rights of all litigants;
3. Victim safety through the elimination of conflicting orders and diligent monitoring of offender compliance with court orders;
4. Consistent handling of domestic violence and domestic relations matters relating to the same family by a single judge;
5. Efficient use of court resources, with reduced numbers of court appearances and speedier dispositions due to the greater availability of information and consolidation of court operations;
6. Coordinated response and greater collaboration among criminal justice, child welfare and community-based groups offering assistance and services to domestic violence litigants and their children; and
7. Increased confidence in the court system by reducing inefficiencies for litigants and duplication within the court system.

I. Jurisdiction

The creation of the Integrated Domestic Violence (IDV) Court was authorized by the Administrative Order of former Chief Judge Judith S. Kaye and implemented by the Hon. Judy Harris Kluger, former Deputy Chief Administrative Judge for Court Operations and Planning. Judge Kaye's January 6, 2004 order was codified in Part 41 of the Rules of the Chief Judge and has served as the statutory framework for IDV courts throughout New York State.

To successfully achieve the goals of the IDV Courts, the IDV Judge is authorized to hear and decide three types of cases: (1) Criminal cases; specifically misdemeanor and felony domestic violence cases between intimate partners; (2) Family Court cases; including family offenses, custody and visitation disputes, modification/violation petitions and paternity petitions; and (3) Supreme Court contested matrimonial cases. The Kings County IDV Court does not generally hear child abuse and neglect cases or juvenile delinquency cases. Since the New York State Supreme Court has jurisdiction to hear all three types of cases, the Kings County IDV Court is located in the Kings County Supreme Court, Criminal Term, and is presided over by Supreme Court Justice Esther M. Morgenstern.

II. IDV Staff

Judge Morgenstern has capable and well-trained chambers and courtroom staff to ensure that the IDV Court functions efficiently and effectively. In chambers, her Court Attorney, Matthew J. Schwartz, Esq., assists with case conferencing and court administration. Her secretary, Shirley Patitucci, assists with all administrative tasks. The courtroom staff consists of a Supervising Clerk, two Senior Court Clerks/IDV Coordinators, a Senior Court Clerk, a Senior Court Office Assistant, and a Resource Coordinator. The IDV Coordinators, who rotate between the courtroom and back office each term, monitor the caseload to ensure the efficient and effective transfer of cases.

The Resource Coordinator, Martha “Jenny” Velasquez, MSW, is responsible for ensuring that litigants are linked to appropriate resources assigned by the court, including batterer intervention programs, drug/alcohol and/or mental health treatment programs, supervised visitation programs, and parenting skills programs. She also prepares compliance reports for parties mandated to enter programs and coordinates with the Family Justice Center regarding referrals.

In addition, the IDV Court is staffed with dedicated security, a Sergeant and three Court Officers, who are selectively chosen based on their experience and ability to meet the special challenges of IDV litigants. With the assistance of the Unified Court System’s Training and Professional Development Unit, all security staff receive training on issues related to domestic violence.

The Criminal and Family Courts, as well as the Matrimonial Division of the Supreme Court Civil Term, have designated personnel to act as liaisons to the IDV Court. These liaisons are responsible for identifying IDV eligible cases and ensuring the smooth flow of information to the IDV Court. The IDV Coordinators and liaisons have access to each of the following automated databases: the DV Registry, the Universal Case Management System (UCMS), CRIMS, the Sex Offender Registry, the IDV Court application and Civil Computer Information System (CCIS) for matrimonial matters.

III. National Mentor Court

In 2013, recognizing the court’s commitment to excellence, the U.S. Department of Justice’s Office on Violence Against Women designated the Kings County IDV court a National Mentor Court. As such, the Kings County IDV court was one of only three criminal and civil domestic violence courts initially selected to serve as a model for other jurisdictions considering the development of a domestic violence or integrated domestic violence court. The peer-to-peer support of the mentor program is intended to improve responses to domestic violence by providing technical support and sharing best practices as well as legal and operational information with interested jurisdictions across the country.

As a mentor court, the Kings County IDV Court has hosted court teams and domestic violence advocates from around the world, including thirteen states, a US territory, and ten foreign countries. The mentor court program allows for the broad dissemination of best practices standards, lessons learned, and discussion of innovations with judges, court personnel and local stakeholders, including the Center for Court Innovation, Kings County District Attorney’s Office, public defenders, private defense bar, New York City Police Department, New York City Department of Probation, civil legal service providers, domestic violence agencies, and abusive partner intervention programs (Full list of Stakeholders on Page 19).

IV. Case Eligibility and Screening

i) General Procedures

The key requirement for transfer of a case to the IDV Court is an arrest for a domestic violence crime between intimate parties. Families are eligible to have their cases transferred to the IDV Court if there is: 1) a misdemeanor or felony case commenced in the Criminal Court stemming from allegations of domestic violence between intimate partners; and 2) either a family offense petition filed between intimate partners (civil domestic violence), a custody/visitation or paternity matter involving the same parties in Family Court, or an ongoing matrimonial case (divorce and ancillary relief) commenced in Supreme Court, or all three. Additionally, as of October 2019, pursuant to CPLR §1602, those individuals that violate orders of protection in domestic violence or domestic relations matters are no longer exempt from liability in civil actions brought by victims. These DV victims may now bring civil suits for violations of orders of protections for monetary damages in the IDV court.

Once the IDV Coordinator determines or is notified that a family may be eligible for transfer to the IDV Court, the IDV Coordinator provides the Judge with copies of the Criminal Court accusatory instrument and either the Family Court petition or the Matrimonial file (including the Request for Judicial Intervention and Preliminary Conference Notice). An important consideration in deciding whether to transfer a family to the IDV Court is whether any of the cases have progressed beyond a stage in the original court proceedings that would make re-assignment inappropriate or ineffective.

When a case is identified as eligible for transfer to the IDV Court and it is determined that the matter could be transferred to the IDV Court, an order is generated by the IDV Coordinator for the Judge's signature. The IDV Judge ultimately determines whether a transfer should occur and, if so, executes a Supreme Court Transfer Order to consolidate all appropriate proceedings into the IDV Court. This transfer order directs that the Criminal Court, Family Court and Matrimonial matters be transferred to the IDV Court and includes the date for the initial appearance in the IDV Court. This consolidated proceeding is then assigned a unique IDV Family Docket Number, which is separate from any Criminal, Family or Supreme Court docket number.

Upon receiving the signed transfer order, the IDV Coordinator forwards it to the originating courts. If the next scheduled appearance date is in the originating court, at that appearance the Court will notify the parties on the record that the matter has been referred to the IDV Court and inform them of the appearance date specified in the transfer order. If the next scheduled appearance date is in the IDV Court, the IDV liaisons in the originating courts and/or the IDV Coordinators notify the parties, attorneys, respective Judges, and service providers that the case has been transferred to the IDV Court as well as the appearance date specified in the transfer order. When any new case is transferred to the IDV Court, the IDV Coordinators will attempt to honor the original Criminal Court, Family Court and/or Supreme Court appearance date, if possible, to avoid litigant confusion.

The IDV Court conducts an intake calendar for new IDV families on Tuesdays, Wednesdays, and Thursdays with four new families calendared on each intake date. In 2018, 340 new families were transferred into the IDV Part; in 2019, 358 new families were transferred into the IDV Part.

INTEGRATED DOMESTIC VIOLENCE COURT

Once a family appears in the IDV Court, the case will remain there along with any new criminal complaints, family court modification/violation petitions or post-judgment divorce applications involving those same intimate partners. It is imperative that Criminal Court, Family Court and Supreme Court clerks and judges and staff be cognizant of a family's IDV Court history and communicate with the IDV Coordinators to ensure that any new cases filed by an IDV family are transferred to the IDV Court.

Notably, IDV Courts do not have jurisdiction over "Raise the Age" cases, and the Kings County IDV Court does not currently accept Article 10 Abuse and Neglect matters or juvenile delinquency proceedings.¹ Therefore, the filing of such petitions CAN render a family ineligible for transfer to the Kings County IDV Court. If a family has had their criminal and family court cases transferred to the IDV Court and it is discovered that an Article 10 case has been commenced, those criminal and family court cases will be deemed ineligible for transfer to the IDV Court and they will be returned back to the originating courts. However, if a family has had their criminal and matrimonial cases transferred to the IDV Court and it is discovered that an Article 10 case has been commenced, the court will retain jurisdiction over all aspects of the cases except for custody and visitation matters, which remain before the Family Court along with the Article 10 case. Any Article 10 matters must be resolved prior to the entry of a Judgment of Divorce.

a) Criminal Court Cases

The IDV Coordinator conducts a preliminary search for IDV eligible cases in the New York State Unified Court System's IDV Automated Case Identification System (ACIS) application. The ACIS application allows for the IDV Coordinator to search for criminal defendants that have active Criminal and Family Court cases. Utilizing the ACIS search results the IDV Coordinator can cross-reference other applications such as the Criminal Record Information System (CRIS) and UCMS to determine if the related Criminal and Family Court cases are in fact IDV eligible. Additionally, at Criminal Court arraignments, the court clerk screens all domestic violence matters through the Domestic Violence Registry ("Registry") for outstanding Orders of Protections. If such orders exist, these cases are identified as DV-M or DV-F, according to Criminal Court procedures. Registry screening include checks for a defendant's name, date of birth and social security number (if available). The court clerk prints out a copy of the Registry results and forwards it to the Arraignment Judge for review.

Following the Criminal Court arraignment, all intimate partner family domestic violence cases are adjourned to the designated DV Part (DV-1). Once there, the Criminal Court Liaison assigned to the DV Part Clerk's Office reviews the DV Registry results and cross-checks UCMS for pending Family Court matters. Upon identification of a related case, the Criminal Court Liaison notifies the IDV Coordinator of an IDV eligible matter and forwards a copy of the Registry results and a copy of the accusatory instrument along with the adjourned date to both the IDV Coordinator and the Family Court Liaison. The Criminal Court Liaison also transmits a form, entitled "IDV Part Notification/Forwarding/Acknowledgement of Receipt" (notification form), which contains the names of all parties and the docket/index numbers. If there is a pending matrimonial matter, a copy of the accusatory instrument and notification form with the adjourned date is forwarded to the Matrimonial Liaison. Once a case is accepted by the IDV Court and a transfer order is completed, an IDV case file is created for each family. This file is assigned a unique IDV number in the IDV Application and contains each of the family's related cases.

1. Some NYS IDV Courts accept Abuse and Neglect cases.

b) Family Court Cases

As with the Criminal Court cases, the IDV Coordinator utilizes the ACIS application to assist in locating Family Court cases that may be IDV eligible. Upon the filing of a Family Offense, Custody or Visitation Petition in Family Court, the petition room clerk checks the DV Registry for any active Orders of Protection involving the parties by searching for the names, dates of birth, and social security numbers (if available) of both parties (petitioner and respondent). If an active Order of Protection exists, the petition room clerk provides the Registry results to the Family Court Liaison. Thereafter, the Family Court Liaison reviews the Registry results and cross-checks UCMS Criminal for any pending Criminal Court matters and CCIS for any related matrimonial case.

In the event of a related case, the liaison notifies the Judge in the Family Court Intake Part that the Family Court proceeding may be IDV eligible. The matter remains in the Family Court until a determination regarding transfer is made by the IDV Judge. If it is determined that the matter should be transferred to the IDV Court, the Family Court liaison transmits a notification form containing the names of the parties, docket numbers and adjourn date to each court from which a case has been transferred to the IDV Court (Criminal, Family and/or Supreme Court). This form and all other petitions and orders are transmitted online via UCMS as the Family Court is now completely paperless. All notifications to the parties are done in Family Court as soon as the transfer orders are received, regardless of the adjourned date. If the scheduled appearance date in the IDV Court precedes the previously scheduled date in Family Court, the Family Court liaison notifies the parties and counsel, the Family Court Judge and any service providers of the transfer and the appearance date in the IDV Court.

c) Matrimonial Cases

Upon the filing of a matrimonial matter in the Supreme Court, the Matrimonial Liaison, who serves as a clerk in the Matrimonial Clerks Office, checks the DV Registry for any active Orders of Protection against the plaintiff and/or defendant by searching the Registry for the names, dates of birth, and social security numbers of both parties. The liaison prints out a copy of the Registry results and cross-checks UCMS for any pending Criminal or Family Court proceedings. If a related domestic violence case is found, the Liaison notifies the Matrimonial Judge that the matter may be IDV eligible. The matter is adjourned pending determination by the IDV Judge.

If the IDV Court determines that a matrimonial case is eligible for transfer, the IDV Coordinator will inform the Matrimonial Liaison by e-mail and a transfer order will be generated for the IDV Judge. Once the Matrimonial Liaison receives the signed transfer order, the matrimonial file is sent to the IDV Court and all parties and counsel are alerted as to the transfer. A notification form, containing the names of all parties and counsel, index number and adjourn date are transmitted to each court from which a case has been transferred to the IDV Court (Criminal, Family and/or Supreme Court). If a matrimonial case is not IDV eligible, the IDV Coordinator will inform the Matrimonial Liaison via e-mail.

All new matrimonial cases are now electronically filed in the New York State Courts Electronic Filing (NYSCEF) system. The IDV Court is able to access all documentation instantly upon a transfer order being signed. Furthermore, UCMS has not been expanded to include Supreme Court cases.

INTEGRATED DOMESTIC VIOLENCE COURT

d) Child Support Cases

The Kings County Family Court has designated ONE Magistrate to hear all child support/spousal support petitions of parties with custody and visitation matters pending in the Kings County IDV Court. Families that have a case in the IDV Court will have their support matters transferred to this Support Magistrate. As a courtesy to litigants and their attorneys, appearances before the IDV Support Magistrate are scheduled on the same days as their appearances in the IDV Court, which are both located in the same court complex. The IDV Support Magistrate and IDV Court Clerk communicate regularly to exchange information regarding the scheduling and calendaring of cases before the IDV Judge and IDV Support Magistrate. The IDV Support Magistrate cases remain active in UCMS and are monitored by the IDV Judge, who also has access to reports from the Child Support Enforcement Unit.

Support cases are considered IDV eligible when the parties have a criminal proceeding and a Family Court and/or Matrimonial proceeding pending at the same time. Upon the filing of a Petition for Support in Family Court, and prior to subsequent court appearances, the Support Liaison checks for existing related cases. If such cases are found, the Liaison notifies the Support Magistrate that the matter may be IDV eligible. Once the family's cases are in IDV Court, the support matter is expedited and assigned (or re-assigned) to the designated IDV Support Magistrate, and the Liaison will forward a copy of the DV Registry results and support order along with the adjourned date. IDV support cases are on a "specialty track" in Family Court and distinguished from the IDV Support Magistrate's other cases. Family Court confidentiality rules and practices, which apply to Child Support proceedings, apply to cases before the designated IDV Support Magistrate. Detailed information regarding the particulars of Support cases before the IDV Support Magistrate is exchanged with the IDV Court. Emergency Orders of Support, issued by the IDV Judge on a Family Offense Petition pursuant to FCA §828(4) and (5), are referred to the IDV Support Magistrate for a hearing and final determination once a Support Petition is filed. If a matrimonial action is filed, the support case is transferred to the IDV Court.

The IDV Judge also hears all Willfulness Hearings filed under FCA §439 for IDV families that appear before the IDV Support Magistrate. For the IDV Judge to hear a Willfulness Hearing, the support case must be transferred from Family Court to the IDV Court. Filed objections are processed in the Family Court Petition room. Motions are processed through the Family Court Petitions Supervisor. Once a support case is transferred to IDV Court it remains in the IDV Court for the Willfulness Hearing.

V. Court Calendaring

Matters transferred from the Criminal or Family Court to the IDV Court for adjudication become Supreme Court cases. These matters are not consolidated, but instead adjudicated separately in accordance with the Criminal Procedure Law (CPL), FCA Articles 8 and 10 and the Domestic Relations Law (DRL). This separation is necessary to ensure that the different burdens of proof, legal standards and rules governing confidentiality and sealing of records for each case type are maintained.

For criminal cases, the Criminal Court forwards the complete criminal court file to the Supreme Court Criminal Term Clerk's Office. Upon receipt of the court papers, the IDV Coordinator assigns the matter a Supreme Court identification number and "initializes" the matter in CRMS. A record of all matters removed from both the Criminal and Family Courts are maintained electronically. Family Court dockets are recorded in their database as "transferred" to Supreme Court. This acts as a final disposition of the Family Court case in the Family Court (UCMS). The matter is then re-docketed in the Supreme Court by assigning a new "family file" and a new docket number. No physical file is transferred from Family Court to the IDV Court since the Family Court is now entirely paperless, and all necessary documentation, including the Court's notes, can be located within UCMS and printed out for reference by the IDV Judge. Once the matter is assigned to the IDV Court, the IDV Coordinator is responsible for updating both UCMS and the IDV Court application. When Matrimonial cases are transferred to the IDV Court, the Matrimonial Clerk's Office forwards the complete matrimonial file and all related paperwork to the IDV Court via inter-office mail.

To ensure that all proceedings of a family unit are filed together, the IDV Court assigns a unique IDV number to each family. All matters, regardless of court of origin, are referenced under the IDV number. The IDV family file jacket contains the individual folders from each court with endorsements of court activity being made on each individual court file. The IDV family file jacket contains the IDV number, the names of the parties involved in each matter, the names of counsel, and the release status of the defendant. A notation is made on the IDV family file jacket if an interpreter is needed or if either party's address is confidential. All papers are maintained in the folder of the originating court and the confidentiality rules of that court govern public access to information in the files. All orders and decisions are filed in the case file of the appropriate case and all the case files are kept in the IDV jacket.

The IDV Coordinator is responsible for preparing the daily calendars and ensuring that the IDV court folders are available on each court date. In the event that a Superseding Information (SSI) is filed by the District Attorney's Office on a criminal case or an Emergency Order to Show Cause (OTSC) is filed on a Family Court or Matrimonial case, the IDV Coordinator will add the new criminal counts in the SSI and/or the Docket # for the OTSC to that day's calendar so that the Court can address them appropriately. Each case is calendared separately and heard individually, but each family will have all their related cases heard in one day.

Upon completion of the calendars, the IDV Coordinator ensures that the following databases are updated: IDV Court Application, UCMS, CRMS and CCIS. Court files are maintained in the IDV court upon disposition.

VI. New Arrests, Supplemental Petitions, or Post-Judgment Applications

All new criminal DV arrests, post-conviction motions, probation violations or violations of a conditional discharge, supplemental Family Court petitions alleging a violation, seeking enforcement and/or seeking a modification of prior orders or other post judgment/final order activity relating to an IDV family, which were previously adjudicated in the IDV Court, are referred to the IDV Court. At the discretion of the court, additional relevant criminal cases (i.e., Criminal Possession of a Weapon/Driving While Intoxicated/Criminal Sale or Possession of a Controlled Substance), involving a defendant who has a pending IDV case, may also be transferred to the IDV Court when it may affect the court's decision as to custody and visitation. Appropriate consideration is given to applicable statutes and court rules pertaining to such transfer.

The goal of the IDV Court is to coordinate the court cases of families affected by domestic violence by bringing related cases involving the same family before a single judge on one scheduled calendar date. If a litigant who is already involved in an IDV case seeks to file a supplemental violation petition in Family Court, the Family Court staff will communicate with the IDV Court and will endeavor to have the case transferred and heard in the IDV Court that same day. If this is not possible, the matter will be heard on the day of filing by a Family Court Judge. At this appearance, the Family Court Judge will issue new process and will adjourn the case to the date the matter has been scheduled in the IDV Court. Family Court staff communicates with the IDV Court staff regarding the details of the initial appearance in Family Court and subsequent transfer of the case to IDV Court.

VII. Services and Resources

One of the goals of the IDV Court is to promote coordination of social services and other resources to comprehensively address the needs of family members. In order to meet this objective, the court has identified local service providers to develop and maintain a community-based integrated response to domestic violence. In that regard, the IDV Court has partnered with the New York City Family Justice Center (FJC), whose ultimate goal is to reduce the number of family violence incidents and to encourage victims to seek help. The Mayor's Office to End Domestic and Gender-Based Violence and the Kings County District Attorney's Office are the FJC's primary partners.

The FJC is located inside the Kings County District Attorney's Office. Its mission is to provide victims with a full range of immediate and supportive assistance. Victims can meet with a prosecutor, petition for an Order of Protection, receive legal advice on housing, immigration, custody and child/spousal support issues, speak to a counselor, and apply for housing, financial and immigration assistance while their children play safely in the playroom at the FJC. Representatives from City and State agencies, community and faith-based organizations, and universities provide on-site support to the Center. Other services victims can access include safety planning, access to shelters, public assistance benefits, childcare, counseling support groups, services for the disabled, court escorts, and parenting skills training.

PROTOCOLS FOR SUSTAINABILITY 2021

The Kings County IDV Court now has complete virtual capability in response to the Covid-19 pandemic. This has allowed the Court to continue to operate at full capacity despite having no litigants or attorneys appear physically in the Courtroom. Since March of 2020 the Kings County IDV Court has been hearing all Criminal, Family and Matrimonial cases remotely, with few exceptions, and is looking forward to utilizing this technology even as the Courts open in an effort to promote public health and DV victim safety.

The Kings County IDV Court is now able to issue remote orders of protection, on both Criminal and Family Court cases, to Domestic Violence victims without having to subject them to any unnecessary contact with their abusers. While the litigants will not be able to appear remotely for the entirety of the case, having the technology and the option to appear virtually will open the Courts to those who have found it difficult, and potentially dangerous, to navigate previously.

In the IDV Court, Safe Horizon, Sanctuary for Families, the New York Legal Assistance Group, Brooklyn Defenders Services, the Legal Aid Society and the 18b Assigned Counsel Panel provide comprehensive services, including legal representation for victims of domestic violence, and have trial attorneys and support staff. Additionally, Safe Horizon has a supervised visitation program located in the Kings County Family Court.

Other local programs currently available in Kings County and the New York City area include: the New York Society for the Prevention of Cruelty to Children, which provides supervised visitation services and Child Sexual Abuse Prevention Education for Parents and trauma counseling for victims and children; STEPS to End Family Violence; Comprehensive Family Services, which also provides supervised visitation services; and the EAC Network TASC Batterer Intervention Program, PAC Program for Outpatient Drug Rehab, Domestic Violence/Batterer Intervention Program, and Parenting Skills Program. Additionally, the Administration for Children's Services is available to conduct Court Ordered Investigations (COI) for the IDV Court on Family and Matrimonial cases.

Defendants/Respondents are often mandated to these programs as part of a criminal sentence or disposition on a family offense petition. Parties are sometimes referred to these programs individually to receive services as part of a custody/visitation disposition. The court has also partnered with local service providers to develop a system wherein these services are available on a voluntary basis for litigants and affected families. One of the goals of the IDV Court is to immediately direct litigants to these providers so that they can receive services between the initial filing and the first court appearance.

VIII. Legal Representation

I) Criminal Cases

For criminal cases, the Kings County District Attorney's Office (KCDA), which represents the People of the State of New York in Brooklyn, assigns dedicated Assistant District Attorneys (ADA) to the IDV Court. The ADAs appear in all criminal cases calendared in the IDV Court. The defendant who may also be a petitioner or respondent in a related Family Court matter, if eligible, may be represented by The Legal Aid Society Criminal Defense Division, Brooklyn Defenders Services, Criminal Court Assigned Counsel Panel (18-B counsel) or by private counsel. The Legal Aid Society, Brooklyn Defenders Services and Assigned Counsel panel assign designated cross-trained attorneys to the IDV Court who appear daily and are available for intake on new cases.

II) Family and Matrimonial Cases

Many litigants in Family Court proceedings heard in the Kings County IDV Court are entitled, if eligible, to court-appointed counsel on issues of custody, visitation, family offense and paternity petitions. FCA §262 sets forth the right to counsel criteria in these cases, and the IDV Court determines whether a litigant meets these eligibility criteria, including financial eligibility. The court has discretion in this regard but will assign counsel to litigants who are deemed eligible.

There are multiple cross-trained legal services providers available for assignment in the Kings County IDV Court including The Legal Aid Society, Brooklyn Defenders Services and the Family Court Assigned Counsel Panel (18-B counsel), who are often representing one of the parties in the related criminal matter. Other civil legal providers available for assignment on family court matters include the Safe Horizon Domestic Violence Law Project, Sanctuary for Families, New York Legal Assistance Group, and the Urban Justice Center on issues of custody and visitation. Many of these organizations also provide on-site legal and social work staff in the Court to assist litigants. The litigants, whether criminal defendants or petitioners or respondents on a family court case, may always retain counsel and litigants who are not eligible for court appointed counsel must retain their own counsel or proceed unrepresented.

III) Matrimonial Cases

The Court may appoint attorneys to litigants in matrimonial cases, on issues of custody, visitation and orders of protection if they are deemed financially eligible pursuant to Judiciary Law §35(8).

IV) Attorneys for Children

In Family Court custody and visitation cases and matrimonial cases, children may also be assigned an Attorney for the Child (AFC) to represent their interests, at the court's discretion, if the family is eligible. In the Kings County IDV Court the Children's Law Center (CLC) has an attorney dedicated to the Court who is available for assignment on both family court and matrimonial cases. If CLC has a conflict the Court can appoint an AFC pursuant to Judiciary Law §35(8) if the parents are financially eligible. If the court determines that the parties are not eligible to have an AFC appointed, they must pay for an attorney pursuant to Part 36 of the Rules of the Chief Judge. In situations where a child is also a complaining witness in a criminal matter, the child's interests will be represented by the Domestic Violence Bureau of the Kings County District Attorney's Office or an assigned attorney in the custody and visitation part of the case.

When the Court conducts a Lincoln Hearing where the Judge meets with a child, in camera, the Attorney for the Child is present. The purpose of the Lincoln Hearing is for the Judge to discuss, with the child and the child's attorney, the child's position and gain insight as to the best interest of the child in a custody and visitation matter.

IX. Judicial Monitoring of Defendants

An effective IDV Court requires close judicial monitoring of criminal defendants to reduce repeat instances of domestic violence and to ensure compliance with judicial mandates. Monitoring defendants has the added benefit of prioritizing victim and child safety and emphasizing offender accountability. The IDV Judge monitors compliance with court orders involving evaluation and treatment and the defendant's placement on probation or their enrollment in drug/alcohol treatment, mental health treatment programs and parenting skills.

Defendants who are sentenced to a term of probation are closely monitored by the Court. The IDV Court developed protocols for Probation to report the status of defendants on probation to the court. Court orders also provide for reports to be submitted by court-directed evaluators and service providers, which are reviewed by the IDV Resource Coordinator and the IDV Judge. The IDV Resource Coordinator ensures that the IDV Judge receives all reports prior to scheduled compliance conferences and appearances. Initially, offenders return to court at least once a month for compliance reviews. If an offender proves to be reliable, the court may direct less frequent court appearances. Compliance dates are determined on a case-by-case basis, taking into consideration the seriousness of the allegations, employment, attendance at school, work or mandated programs, and other relevant factors. Probation liaisons and representatives from batterer's intervention programs, drug treatment programs, mental health programs and other treatment providers also appear regularly at these compliance reviews.

X. Judicial and Non-Judicial Training

Justice Esther M. Morgenstern gained experience in both Criminal Court, Family Court and in the Model IDV Court that was established in Queens County in 2004. This prepared her to preside over the IDV Court in Kings County, the busiest IDV Court in the State of New York. All the non-judicial personnel involved in the IDV Court have had experience in Family Court or in Criminal Court. The IDV Court works with the Office of Court Administration and with the Hon. Sherry Klein Heitler, Chief of Policy and Planning for the New York State Unified Court System, as well as with the Center for Court Innovation to provide additional support and training for judicial and non-judicial personnel. This includes disseminating the most recent research on domestic violence issues and providing information regarding the best practices employed by IDV Courts throughout the state and country. The Kings County IDV Court offers training for new staff and requires that IDV staff participate in ongoing training via Stakeholder Meetings, conferences and webinars. The Kings County IDV Court has traveled to Korea, Israel, Arizona, California, New Mexico, Michigan, Oklahoma, Florida, Georgia and Washington D.C. for various trainings throughout the years. Additionally, the Kings County IDV Court has hosted visitors from Israel, Chile, Lebanon, Mexico, China, the Philippines and various states throughout the U.S.

XI. Courthouse Facilities and Safety

The Kings County IDV Court is located inside the Kings County Supreme Court Building at 320 Jay Street, Brooklyn, New York. The Family Court and Family Justice Center are also located in the immediate vicinity, resulting in a truly integrated experience for litigants. Cases are easily transferred from Family Court to the IDV Court and many services between the courts are shared. The courthouse is a modern facility with state-of-the-art technological equipment. The dignified setting adds to the decorum of the proceedings. Also located in the courthouse are secure waiting areas for litigants and confidential interview rooms for attorneys to meet with their clients. It also contains a spacious Children's Center to be utilized by litigants from Family and Supreme Court while waiting for their cases to be called. The Kings County IDV Court has also partnered with Safe Horizon, located in the same building, which provides a safe space for litigants and their children to enjoy supervised visitation if ordered by the Court.

The IDV courtroom is equipped with a detention area, a robing room for conferences and IDV Court offices for court staff and court files. In the public area there are numerous attorney-client interview rooms and dedicated witness waiting areas.

XII. Confidentiality and Case Integrity

Although the IDV Court handles Criminal Court, Family Court and Supreme Court cases, the individual cases retain separate identities and are governed by the procedural rules applicable in the originating court. Since different procedures and evidentiary rules apply to different cases, it is essential that the judge and court personnel preserve the integrity and distinct characteristics of each type of proceeding. The criminal, family, and matrimonial portions of a family file are not intermingled but kept in separate sections of each family's IDV jacket. Rules concerning confidentiality and record-sharing are adhered to strictly.

The heightened expectations of privacy in Family Court and matrimonial matters are not compromised as a result of those cases being heard in conjunction with criminal matters. Likewise, the Judge and court personnel ensure that due process protections required in criminal, family and matrimonial proceedings are maintained, particularly in instances where evidence that may be admissible in family or matrimonial proceedings is inadmissible in criminal proceedings and vice versa.

XIII. Stakeholders

Stakeholder meetings are held quarterly throughout the year. All stakeholders are encouraged to provide ongoing feedback to the IDV Court so that any issues or concerns may be considered and addressed at the earliest possible moment. New stakeholders are invited to participate in the IDV Court upon entering into a commitment to work with the court. Community outreach is also conducted and is aimed at encouraging additional organizations to participate in the IDV Court, to educate the public about the benefits of the court and to encourage the public to support the efforts of the groups already participating in the IDV Court.

Conclusion

As the issue of domestic violence continues to resonate throughout public discourse in Kings County, throughout the country and the world it is more important than ever to ensure the sustainability of the Kings County IDV Court “One Family, One Judge” model so that it can continue to maintain its goals of enhanced victim safety, improved court efficiency, consistent judicial decision-making and increased offender accountability. The Kings County IDV Court is committed to excellence and will continue to explore new and innovative strategies to address issues surrounding domestic violence in Kings County and throughout the country.

With the publication of these IDV Court Protocols it is our goal that the success of the Kings County Integrated Domestic Violence Mentor Court will continue and that Domestic Violence Courts throughout the country will be able to integrate our model and strategies for their own benefits.

Glossary of Common Terms and Acronyms in the IDV Court

STAKEHOLDERS

Terms	Definitions
BDS	Brooklyn Defender Services
CCI	Center for Court Innovation
CFS	Comprehensive Family Services
CLC	Children’s Law Center
FJC	Family Justice Center
KCDA	Kings County District Attorney’s Office
LAS	The Legal Aid Society
NYLAG	New York Legal Assistance Group
NYSPCC	New York Society for the Prevention of Cruelty to Children
OPP	New York State Unified Court System Office of Policy and Planning
SF	Sanctuary for Families
SH	Safe Horizon
UJC	Urban Justice Center

PROTOCOLS FOR SUSTAINABILITY 2021

COMMON TERMS	
Terms	Definitions
ACS	Administration for Children’s Services in New York City.
ACD	Adjournment in Contemplation of Dismissal.
ADA	Assistant District Attorney.
AFC	Attorney for the Child/Children.
ASFA	The Adoption and Safe Families Act (ASFA, Public Law 105-89).
FCA Art. 10	Family Court Act section for child abuse and neglect proceedings.
BIP	Batterer’s Intervention Program.
CCIS	Civil Computer Information System: The information storage and management application for Supreme Court Matrimonial Cases.
CD	Conditional Discharge: A sentence of unsupervised probation where a defendant is obligated to refrain from illegal activity and comply with treatment programs and/or orders of protection.
CFS	Comprehensive Family Services: A non-profit organization that provides therapy, supervised and therapeutic visitation services to families.
CLC	The Children’s Law Center: An organization dedicated to representing and advocating for children in Family Court and IDV proceedings.
COC	Certificate of Compliance required to be filed by the People prior to stating ready for trial on criminal cases.
COI	Court Ordered Investigation: The Court orders ACS workers to investigate and report to the court about living conditions in the homes of parents/persons legally responsible for children.
Complaint	The accusatory instrument that initiates criminal court proceedings containing the sworn factual allegations and the charges against the Defendant.
Complainant/Complaining Witness/CW	The victim of a crime who provides the factual details for the criminal complaint.
Conversion	The process where a criminal complaint is converted into a jurisdictionally sufficient instrument to prosecute the charges against a Defendant. The complainant must swear to the truth of the factual allegations in the Complaint.

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CNT §722(c)	County Law that allows a court to order a municipality to pay for services, other than counsel, needed in custody and visitation proceedings if the Court determines the person is indigent such as Supervised Visitation, Forensic Evaluations and Expert Testimony.
CPL §30.30	A provision of the Criminal Procedure Law that ensures a Defendant in a criminal proceeding receives a speedy trial.
CPL §170.70	The provision of the Criminal Procedure Law that requires release of criminal defendant in custody if the complaint is not converted to an information within 120 hours (5 days).
CPL §180.80	The provision of the Criminal Procedure Law that requires release of criminal defendant if a felony complaint has not been disposed of or a hearing commenced within 120 hours of or 144 hours (if a Saturday, Sunday or legal holiday occurs during custody).
CPS	Child Protective Services. ACS workers who investigate the well-being of children in New York.
CSEU	Child Support Enforcement Unit: Branch of the New York State Division of Child Support Services that can monitor and enforce a family's child support payments
Deposition/EBT	Examination Before Trial: A discovery tool where the parties and witnesses may be examined by attorneys under oath and have the questions and answers recorded for future use.
DV	Domestic Violence
FJC	Family Justice Center
IDV	Integrated Domestic Violence
In Camera	In private, taking place in chambers. The Judge reviews subpoenaed documents; interviews children "in camera."
Indicated Case	Substantive allegation of abuse or neglect by ACS.
Information	A misdemeanor complaint has the factual allegations supported by a witness to the alleged incident. A supporting deposition from the CW converts a complaint into an Information which is the required predicate for prosecution of a crime.

PROTOCOLS FOR SUSTAINABILITY 2021

Lincoln Hearing	An “in camera” hearing on the record conducted by the Court where a child is questioned about living conditions, concerns about safety and issues relating to custody and visitation in the presence of the child’s attorney.
MICA	Mental Illness and Chemical Addiction treatment program
NDF	Notice of Disclosure Form. Form required to be filed by the People before they can state ready for trial on a case.
ORT	Oral Report Transmission for ACS/DCFS
OTSC	Order to Show Cause: A motion wherein the applicant may ask for ex parte or immediate relief from the Court.
Pendente Lite	Latin for “With the Lawsuit Pending.” During the pendency of a matrimonial action litigants may apply for “pendente lite” relief due to urgent need.
Probation	An alternative to incarceration sentence where the Defendant accepts conditions and supervision by the Department of Probation.
Safe Horizon	A victim services agency dedicated to prevention of domestic violence and comprehensive representation and advocacy for victims of domestic violence and other crimes.
SCR	State Central Registry. A state-wide record keeping and clearance database on abuse and neglect reports.
SSD	Social Security Disability. A source of support for a disabled person
SSI	Superseding Information. The accusatory instrument that supersedes the original criminal court complaint often containing new sworn factual allegations and new charges against the Defendant.
Supporting Deposition	The sworn statement of the complainant/complaining witness in a criminal court proceeding that confirms the victim has read and agrees with all the information in the Complaint.
TAD	Treatment Alternatives for Dual Diagnoses
TASC	Treatment Alternatives for Street Crimes
TOC	Temporary Order of Custody

INTEGRATED DOMESTIC VIOLENCE COURT

TOP/FOP	Temporary Order of Protection/Final Order of Protection: a court order that orders one to stay away from another person, or what contact between the parties is allowed. Violations of these orders will result in a criminal court proceeding for criminal contempt or a violation petition in Family Court.
TOV	Temporary Order of Visitation
T/P/O	“Time and place of occurrence.” Refers to where and when the alleged crime was committed
UJC	Urban Justice Center
VAWA	Violence Against Women Act. The federal statute that provides protection and support for victims of domestic violence and families and links them to organizations that provide services, support and advocacy for victims.
VOCD	Violation of Conditional Discharge. If Defendant violates the conditions of the CD, then the prosecutor may file a Declaration of Delinquency and the Defendant may be sentenced to incarceration.
VOP	Violation of Probation. If a probationer violates the terms of probation the Department of Probation can file specifications of the violation and the court may sentence the Defendant to incarceration.
18-B	A law (part of the Appellate Division Rules) that permits a court to assign counsel at no cost to the individual, for defense of criminal charges or for custody/visitation proceedings, if the court determines the person is indigent.

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