



**BROOKLYN
DEFENDER
SERVICES**

TESTIMONY OF:

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BROOKLYN DEFENDER SERVICES

Presented before

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Introduction

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

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

Implemented by the late Judge Judith S. Kaye, the guiding principle for the IDV court is “one family/one judge.” Meaning, one judge hears all aspects of a case involving domestic violence, bringing one family’s related Family, Criminal, and Matrimonial cases in front of

a single judge. Before the development of the IDV courts, families would often get inconsistent legal rulings across multiple courts. For example, Family Court judges often issue orders of protection that are inconsistent with those issued in Criminal Court—leading to confusion for the parties and the courts as to which order controls.

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

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

Problem: Delays and Barriers to Reunification

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

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

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

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

average, up to two years. For many of our clients, that means few, if any, visits with their children during the pendency of the case, which has an enormous effect on the parent's relationship with their children.

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

Problem: Missed Opportunities for Innovation

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

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

Conclusion

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

Questions?

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

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

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