

Auckland Specialist Domestic Violence Court



A Specialist Domestic Violence Court design to be implemented in the Auckland District Court in 2007

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Introduction

Specialist domestic violence courts (SDVC) endeavour to improve the process of the criminal court in progressing family violence matters for all stake holders, including victims and their family. International models of specialist courts are varied and many in number. However, each specialist court holds as a principal value the utmost consideration of victim safety and offender accountability.

Information available from international and local SDVCs have been utilised for the Auckland design proposed in this report. Evaluations of SDVCs such as the recent one of Corydon and Gwent courts in the UK provide valuable information. Observations of Waitakere and Manukau courts undertaken by Preventing Violence in the Home identified practical measures which would improve the court response in Auckland. An evaluation of the Waitakere specialist court is currently underway and results should be available in 2006. In addition, some established response systems are in place in Auckland City that have the capacity to support the working of the court and support victims of domestic violence effectively. These include strong community advocates from Preventing Violence in the Home and the Family Safety Team in Auckland.

The following report presents a specialist court design suitable for the Auckland District court. This report pulls together best practise initiatives observed in New Zealand and from overseas models. This report is intended primarily for the use of the lead judicial officer. The accompanying booklet to follow outlines the key aims, processes and functions of the DV court for associated stakeholders.

Background

The current justice response to domestic violence is supported by the Auckland City police who contact Preventing Violence in the Home on each occasion that a domestic violence incident is reported; whether an arrest is made or not. Preventing Violence in the Home will attend the victim's home 24/7 to provide information, support and advocacy as part of a crisis response following an arrest. Ongoing referrals are made to refuge, culturally appropriate services and other social service providers if required. The Auckland District court victim advisors currently inform domestic violence victims of court proceedings and forward victim's views to the presiding Judge in each matter if required. External support is provided by volunteer groups such as Victim Support to support victims in court in giving evidence. Although the current services work hard to improve the court experience for domestic violence victims, a specialist court will streamline these attempts and ensure all stakeholders work for the same end.

A consistent and systematic approach is required to progress domestic violence matters safely through the court system. A systematic approach must promote from the outset protocols, understandings and processes which combine to improve the court experience for all. There are a number of philosophical approaches used in the design of specialist courts in operation both internationally and in New Zealand, which shape ways of responding to domestic violence. We are fortunate in Auckland that a specialist court is being promoted at a national level as described in the Taskforce Report July 2006. This level of support should improve the potential of the design to go far beyond an ad hoc service.

The Family Violence Prevention Fund in San Francisco were supported by the State Justice Institute in May 2002 to create a manual for communities on how to establish a specialist domestic violence court. This manual covers a comprehensive range of considerations, planning milestones and processes that should inform any DV court design and implementation. This manual has been a key resource for the following report. The manual explains various models of specialist court explaining factors which will affect the decision about which option to adopt. These include numbers of cases, size of overall workload at court, and availability of specialist staff from other agencies.

1. **Dedicated Civil Protection Order Docket**

This court handles only Protection Orders. It has dedicated judges and may include enforcement of orders both civil and criminal – may sit once per week.

2. **Criminal Model**

This is a more common model which segregates criminal cases from family matters for specialised, concentrated handling by one or more judges. There is no incorporation of Family Court matters, but it can include minor and serious offences.

3. **Domestic Violence courts with Related Caseloads**

This model combines domestic violence cases and related matters, such as criminal matters, Protection Orders, Day to Day care, Contact, child support or divorce. This model is more comprehensive than the Criminal model and is a 'one-stop shop' approach to service provision. The court contains all the information relating to one family to promote a holistic, total case management approach in the making of court orders.

There are at least 3 versions that fall under this third model. An Integrated domestic violence court offers a model which promotes best practice in terms of services for offenders, victims and our community. However, this model may not be possible due to factors such as numbers of cases, size of overall workload at court, and availability of specialist staff from other agencies. This information will be clearer once the scoping project has been done.

- **Integrated domestic violence court**

This court is designed so that it handles both criminal domestic violence cases and Family Court matters. Advantages of this court are that widespread services are more likely to be available and cases are dealt with comprehensively. One disadvantage of this model exists concerning rules regarding evidence requirements. There can be an ongoing challenge for the judiciary to be mindful of evidence requirements when they are hearing family and criminal matters concerning the same family.

- **Unified Family Court**

In this court there is one judge who handles all Family Court issues related to one family which may or may not include domestic violence. This model does not include criminal matters. This docket model has been successfully implemented in the Auckland Family Court for some years. One disadvantage of this model is that as the unified Family Court's focus is not entirely on domestic violence the issue may get diluted.

- **Coordinated court**

In this court all the various cases handled in an integrated court (Criminal and Family Court matters) are included in the same location, but are not handled by the same judge. There are separate family, domestic violence, criminal and juvenile dockets with their own separate specialist judges and supporting clerical staff. All of the cases before the court are heard in the same court location but by different teams. This court seeks to utilise the advantages of an integrated court in that services are centralised and judges are in close contact, without the associated disadvantages of potential conflicts for judges hearing a variety of matters.

	Integrated	Unified	Coordinated
Jurisdiction	Family and Criminal	Family only	Family and Criminal
Case management style	Same judge hears all cases but not different jurisdictions in the same court sitting. There can be a perceived conflict if Judge has already made a judgement for a family that evidence might affect the new matter the judge is hearing	One judge assigned to each family	Different judges in each docket
Hearing of cases	All matters heard in the same court	Hearing of all family matters including domestic violence in the same setting.	All matters in the same physical court locality.

Integrated Domestic Violence Court

The integrated domestic violence court offers the most scope for adequately and safely responding to domestic violence crime. In the Manukau and Waitakere courts this model, in a limited way is used but only so far in that Protection Orders can be granted by consent within the criminal court sittings. There are benefits of extending this further to include other Family Court matters that are beyond the reach of criminal proceedings currently. The Family Court in Auckland has a weekly hearing day scheduled for the hearing of Protection Order defended hearings. These hearings involve a specialist response including,

- understanding of domestic violence dynamics by judiciary
- court security
- considerations of safety of victims in the court process- if the defendant is unrepresented
- the impact of the order on children and their safety

The specialist DV court in Auckland could include these Protection Order defended hearings in its scope to:

- Ensure that specialist services and safety measures are available to victims of domestic violence throughout court interventions.
- Information could more readily be shared between the jurisdictions and
- More information made available regarding violence in families to inform decisions regarding custody and access issues.

There are some disadvantages and obstacles to an integrated court model in Auckland. These disadvantages include overall resourcing constraints such as:

1. Time available for setting down of hearings.
2. Court personnel skilled to undertake Family and criminal court matters.
3. Space available that could accommodate the two jurisdictions and associated staff.
4. Jurisdiction restrictions imposed on judiciary
5. Difficulties of prior knowledge of cases impacting on judicial intervention.

It could be appropriate at the outset of the SDVC to plan for an integrated court, but initially focus on a specialised criminal model until Family Court services can be integrated.

Specialist Court Philosophy

There are currently a number of different international models which have been developed to provide a philosophical underpinning for use within criminal jurisdictions. These models have often been developed for either general use, or specifically for specialist courts which focus on a particular category of criminal offending, such as drug offences. These include restorative justice, problem solving, therapeutic justice and community court models. Overall the objective of these models has been to move the court intervention from a retributive approach to a rehabilitative approach. This is seen as offering a way to address underlying problems behind the offending behaviour leading to a reduction in re-offending behaviour.

Concurrent with the development of these models has been the recognition of the need to address domestic violence offending in a new way. Domestic violence has particular and complex characteristics which mean that offending is best dealt with in a systemic way rather than ad hoc, as is often the case when dealt with in the general courts. Specialist domestic violence courts (SDVC) have the ability to better serve the needs of victims who are predictably vulnerable to further offending and at risk of sustaining serious injury, or even death. They also have the ability of conveying powerful messages, not only to those directly affected – the victim and offender – but also to the wider community.

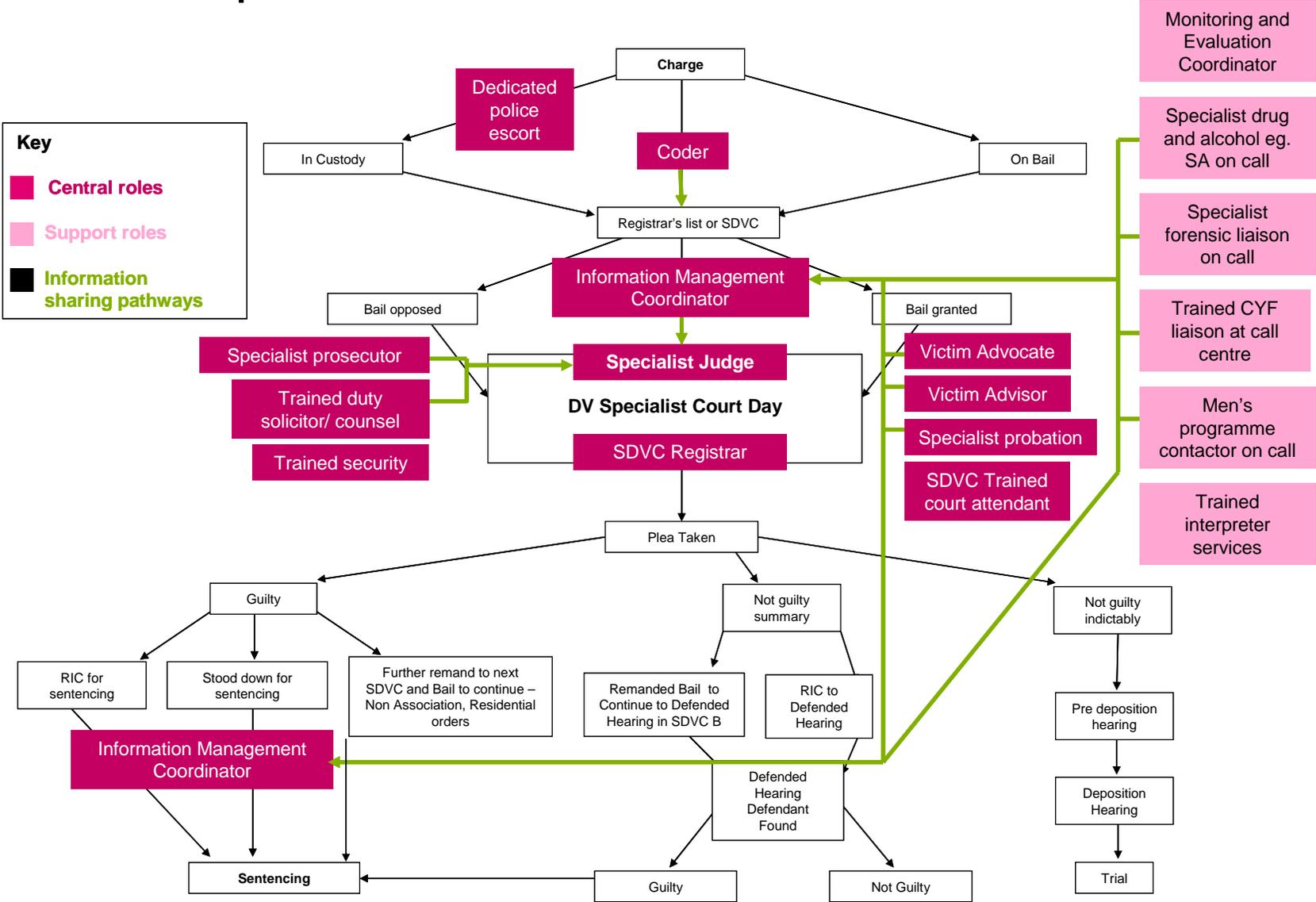
It could be considered that these two imperatives, to provide both a more appropriate response to domestic violence and to incorporate new models for addressing offender behaviour, have converged.

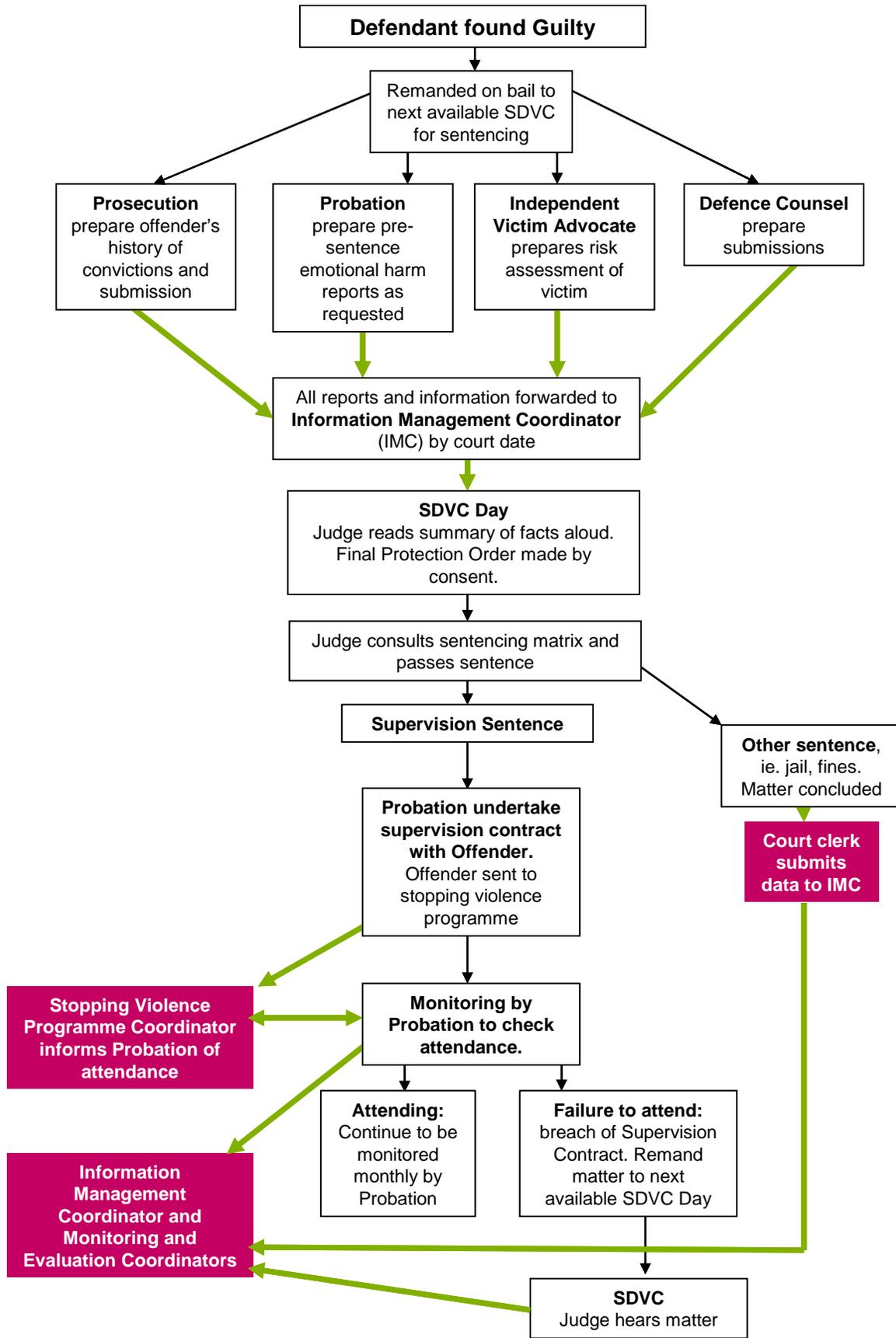
“In general, specialist domestic violence courts differ from other ‘problem-solving’ courts in that they are to consider evenly the safety of victims of domestic violence and ways to ensure offender responsibility and accountability; these courts are frequently described in the literature as ‘victim-centred’ with a primary focus on victim protection. This sets them apart from other alternative specialist courts in which offender well-being is the focus – sentencing with a focus on rehabilitation rather than on deterrence or retribution.”

(Stewart J, Australian Clearinghouse, 2005 pg 4)

The values, principles and aims of both victim safety and offender accountability have been the perspective taken when writing the following court design.

Specialist Domestic Violence Court: Roles and Processes





Aims of the Specialist DV Court

- 1. Improve court efficiency resulting in fewer court appearances and less undue delay.**
 - Better collation and distribution of relevant information for all parties
 - Co-ordination of stakeholders
 - Specialised roles improving response to matters before the court
 - Consistent response understood and accepted by all stakeholders and strengthened by signed protocols
 - Consistency of sentencing via a sentencing matrix – increases process consistency and decreases the need for individual responses

- 2. Improve victim safety.**
 - Victim safety fundamental value of the specialist court
 - Victim safety always considered in issues regarding bail, participation and sentencing
 - Victim services streamlined – on site services available, referral processes formalised for other services such as refuge, advocacy, Work and Income
 - Victim advocates, rather than court officials to promote victim interests
 - Stakeholders advance victim safety as part of agreed protocols e.g. defence counsel do not contact victims
 - Enhance court security for instance by having security officers
 - Location of services in the Court building, and internal access for victims to court rooms

- 3. Increase offender accountability during court proceedings and post conviction.**
 - No 'Not Guilty' pleas accepted at first appearance
 - Early 'Guilty' pleas encouraged
 - Strict bail conditions imposed routinely
 - Formal court proceedings
 - No routine adjournments for defended hearings without penalty
 - Summary of facts read routinely at sentencing
 - Sentencing matrix established to ensure consistent sanctions for offenders
 - Monitoring and evaluation to track outcomes of court decisions

- 4. Promote informed and consistent judicial decision making.**
 - Specialist judges selected for the DV court
 - Specialist judicial training available on dynamics of domestic violence
 - Consistent supply of informed reports regarding context of the violence and risk for future harm to victim and children for judges
 - Sentencing matrix to make decision making transparent

- 5. Ancillary services integral to the court design.**
 - Specialist services easily located in court and accessible to court such as interpreters, drug and alcohol assessors, forensic assessors etc
 - Training for connected services, such as probation, drug and alcohol assessor, forensic assessor, prosecutions, defence counsel, court staff, security officers and interpreters on dynamics of domestic violence
 - Information sharing protocols developed and agreed to ensure specialist services can liaise for the interests of victim safety

- Protocols signed by all stakeholders to uphold the values, aims and processes of the court

6. Protect the rights of all litigants.

- Early disclosure process
- Skilled specialist defence counsel
- Accurate collation and distribution of all information relating to progression of cases, updates from men's programmes, probation reports
- Transparent processes eg bail processes, sentencing based on clear guidelines

7. Increase confidence in the criminal Justice system.

- Specialist response promotes efficiency, sensitivity and consistency
- Transparent sentencing model
- Risk assessment information enhances decision making
- Collaboration of services to ensure better outcomes for offenders and victims
- Increased attention to monitoring cases
- Ongoing evaluation to further improve service

Expected outcomes of the Auckland SDVC

Victim Safety

- Victim satisfaction with the process
- Increased confidence and certainty by victims and front line professionals that action will be taken if a domestic violence offence is reported to police
- Increased victim participation
- A lessened rate of victims' withdrawal from proceedings
- Enhanced safety of victims of domestic violence and their children
- More information available for decisions regarding Protection Orders, special conditions or any associated ancillary orders as information shared more consistently between the criminal and Family Court

Offender Accountability

- Increased rate of reporting of domestic violence offences
- Increased certainty by offenders that consistent action will be taken when domestic violence is reported to the Police
- Increased rate of guilty pleas and convictions for domestic violence offences, due in part to better evidence and brief preparation
- Increased rate of prosecution of domestic violence offences

Court Efficiency

- Timely progression of cases avoiding unnecessary delay
- Decreased rate of withdrawal of charges
- Increased quality of service for court users through a specialist approach
- Consistency by all of approach to domestic violence
- Accountability of the court and it's personnel to the community and service providers

Big Picture

- Increased level of awareness of domestic violence within the community and the agencies which respond to it
- Proactive policing and improved investigation methods in domestic violence offences and evidence gathering
- Increased interagency co-operation
- Coordination of services
- Reduction and prevention of further domestic violence

Getting the Court Established

Lead-in time

In overseas models, a long lead in time is a key factor in the overall success of a specialist domestic violence court. Careful planning is necessary to focus on the range of processes and roles that make up a specialist court. Planning and lead in times vary between court models but some examples are available.

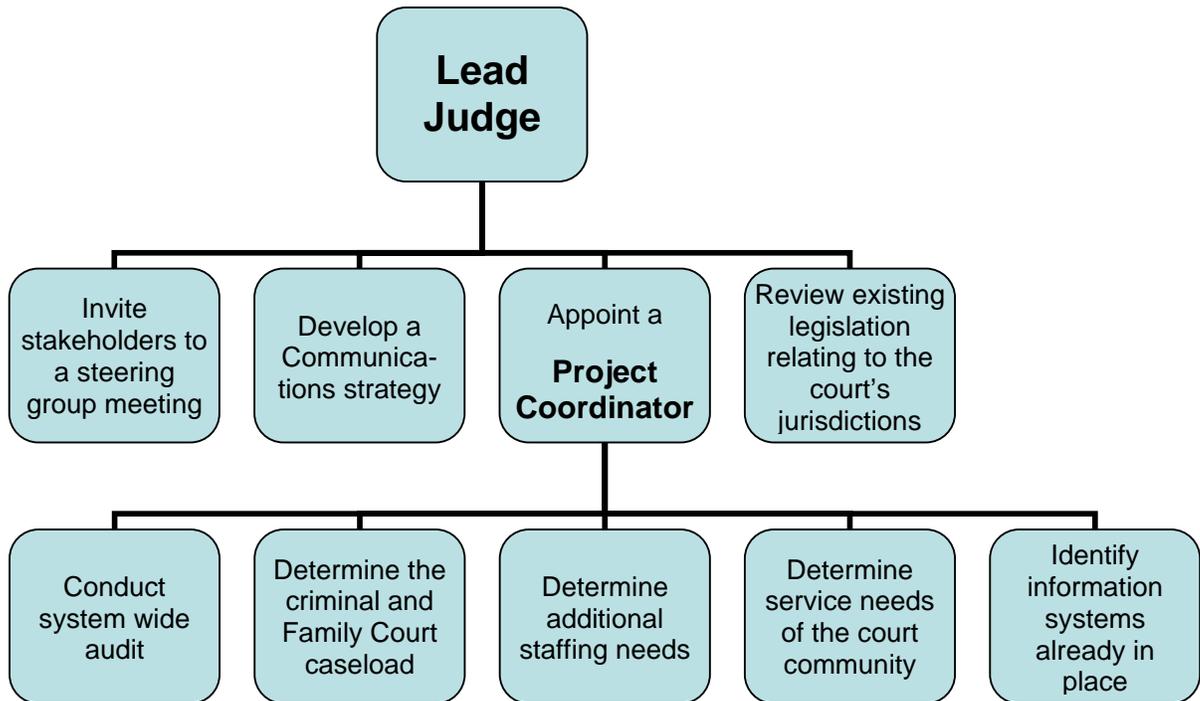
- In Croydon (UK) from planning to commencement was 4 years
- Gwent (UK), from decision to implement to commencement was 5 months
- The UK Specialist DV Court Programme Guidance, produced by Her Majesty's Court Service, Crown Prosecution Service and The Home Office, recommend a lead in time of 5-6 months, followed by a further 6 month test period
- Vancouver Washington DV court – 18 months
- Waitakere DV court , 3 months planning with regular meetings
- Manukau court, 9 months lead in time.

Sufficient lead in time creates potential for all crucial services and systems to be put in place. If not undertaken there is potential for the specialist court to mirror the problems already identified in mainstream courts if

- Training was incomplete or inadequate
- Practice did not adhere to the commonly agreed goals
- Responses and services were not coordinated and integrated
- Responses and services were not adequately resourced
(Stewart J, Australian Clearinghouse, 2005 pg 18)

At present there is no systematic domestic violence response in the Auckland District court. Fast tracking has focused the court's response on time delays but not on other critical factors such as coordinated services, support services, monitoring, tracking, specialist roles, new roles, safety and security measures and information exchange.

Stage One



Establish Lead Judicial Role

The Lead Judge has a formal and pivotal role in the creation and establishment of a SDVC. The Judge has the status to ensure that all necessary stakeholders participate in the planning process. The authority of the judge will give stakeholders confidence in the new system. The lead judge in the SDVC project will need to undertake the following steps as initial foundation laying for the successful implementation of the SDVC. In the early stages, the role of the lead judge is to:

- Lead and promote the establishment of the court
- Invite stakeholders to form a steering group such as judges, probation, victim advisor, Criminal Court Manager, Court Manager, prosecutions, police, Legal Aid Board-Criminal, Snr registrar criminal court, victim representative, men's programme representative,.
- Appoint a Project Coordinator
- Develop a communications strategy for stakeholders and workers outlining the need for the court, timelines, roles etc.
- Review existing legislation affecting the court's jurisdictions relating to Family Court and criminal court cross overs.

Undertake Scoping Exercise

There is background information that must be collected and be ready to present at a later steering group meeting to assist in the planning for the SDVC. The project coordinator will be responsible for ensuring the following scoping work is undertaken.

The scoping exercise will help answer some key questions regarding the ultimate court design

1. What is currently working?
2. Who is currently involved?
3. Will the court combine criminal and Family Court matters?
4. What will the workload of the new court be?
5. What sort of workload will the new court have?

Conduct a system wide audit to determine needs and the strengths and weaknesses of existing responses

- Observation of Waitakere and Manukau courts. This was completed May 2006
- Review all written protocols by the court and all agencies involved in domestic violence response
- Hold a focus group for victims
- Meet with key stakeholders to identify gaps

Determine the criminal Caseload and Family Court caseload

- Obtain statistics that are as accurate as possible. Current statistics available to the report writer suggest that for the year 1 July 2005 to 30 June 2006 the Auckland District Court received 586 MAF Prosecutions and 241 Breach of Protection Order prosecutions. (From case management system, via Justice Data Warehouse). It continues to be difficult to isolate the total number of DV cases that come to the court as they are not currently systematically identified. MAF and Breach of Protection Order charges can be identified as they are obvious domestic violence crimes. Other related offences may include Wilful Damage, Trespass, Misuse of a Phone, Disorderly Behaviour, Dangerous Driving, Sexual Assault, and Assault on a Child.
- Determine the Family Court caseload

Monitor existing legislation affecting the court's processes

There are some current legislative developments that may impact on the development of the SDVC. The project coordinator could take responsibility for reporting back on progress of these developments as they occur.

- Track progress of the Evidence Bill (parliament April 2005, expected report 31st August 2006). This is particularly pertinent to the court as it may affect current restrictions regarding married persons giving evidence, availability of support persons, use of unacceptable questions, restrictions on cross examination; and may provide alternative ways of giving evidence
- In addition the Justice and Electoral Committee Inquiry into the Victim Rights Act is currently underway and may impact on the victim advocate role and court processes of the SDVC

Determine additional staffing needs

There will not be additional funding allocated in the 2006/2007 year for the Auckland Specialist Domestic Violence Court. It is unlikely that budget announcements in the 07/08 year will include funding for advocate positions. However, the design of the court proposed in this report is based on a best practice model which does include the necessary development of a few new roles. The scoping project will help to ascertain if these new roles will require additional funding or can be established out of existing positions.

- Determine the number of court and partner agency staff needed to handle the caseload effectively, necessary qualifications for such staff, whether there are existing staff available to fill these positions, or whether new positions are required
- Determine needs of counsel representing defendants, especially duty solicitors
- What will be required of staff in the new SDVC?
- Research whether or not staff should be fully dedicated to the court or can they be assigned additional work as well
- Identify staff interested in the court who are willing to be educated about DV and are prepared to commit to the court for some time to reduce turnover and ensure high quality

Determine service needs and cultural diversity of community

It is important that population demographics are researched and the potential needs of court users are built into the court design. Cultural variations will have an impact on services at the court including, victim services, interpreter services, court pamphlets etc. In addition information about gender, ages and disability of our Auckland City population will help us shape a refined and accurate court response. Auckland has a diverse population base giving it a very unique character compared to other cities in the Auckland Region and the rest of New Zealand. We know that Auckland City contains the largest population in the Auckland region (32 per cent of the population of the Auckland region) made up of 181 cultures.

- Auckland City has the lower percentage of NZ Maori than the Auckland Region and New Zealand as a whole.
- Auckland City has the second highest actual numbers of NZ Maori in the region.
- Auckland also has the higher proportion of Asian population than the region as a whole and New Zealand.
- And in considering the ages of residents we have the lower proportion of people aged less than 15 years than the region as a whole and New Zealand.
(Auckland City Council, website)

We need to know the percentages of defendants who are male and female, how many cases involve children, how many same sex couples might use the court, how many family relationships other than intimate partners might come to the attention of the court. This information can be scoped through the Preventing Violence in the Home Database which notes every detail for all arrests made in Auckland City.

- Determine services needed to address ranges of cases
- Establish demographic identity of Auckland District court to isolate cultural groups, ages, disability, types of relationships, male victims, think how dynamics of these groups might be expressed in DV cases to ensure response will be appropriate by the court

Identify and access information systems already in place.

- Coordination of information is crucial to the court project
- What information systems are relevant to domestic violence cases Some information systems currently identified include the police data base, court data base, Preventing Violence in the Home data base and histories, Pol 400s, Family Court data, Victim Advisor records of contact etc, CYFs records, Probation reports/notes, Psychological assessments, mental health records, men's programme records

Stage Two

Project Development

'Judge Fritzier, the major force behind the creation of the Vancouver domestic violence court, explained that popular support, while essential, cannot sustain reform alone. It is a complicated process that can only be successful if all the essential participants and service providers are included in the process. All these participants must buy into the basic principles and concepts of a dedicated domestic violence court.'

(Helling, 2005, pg 7)

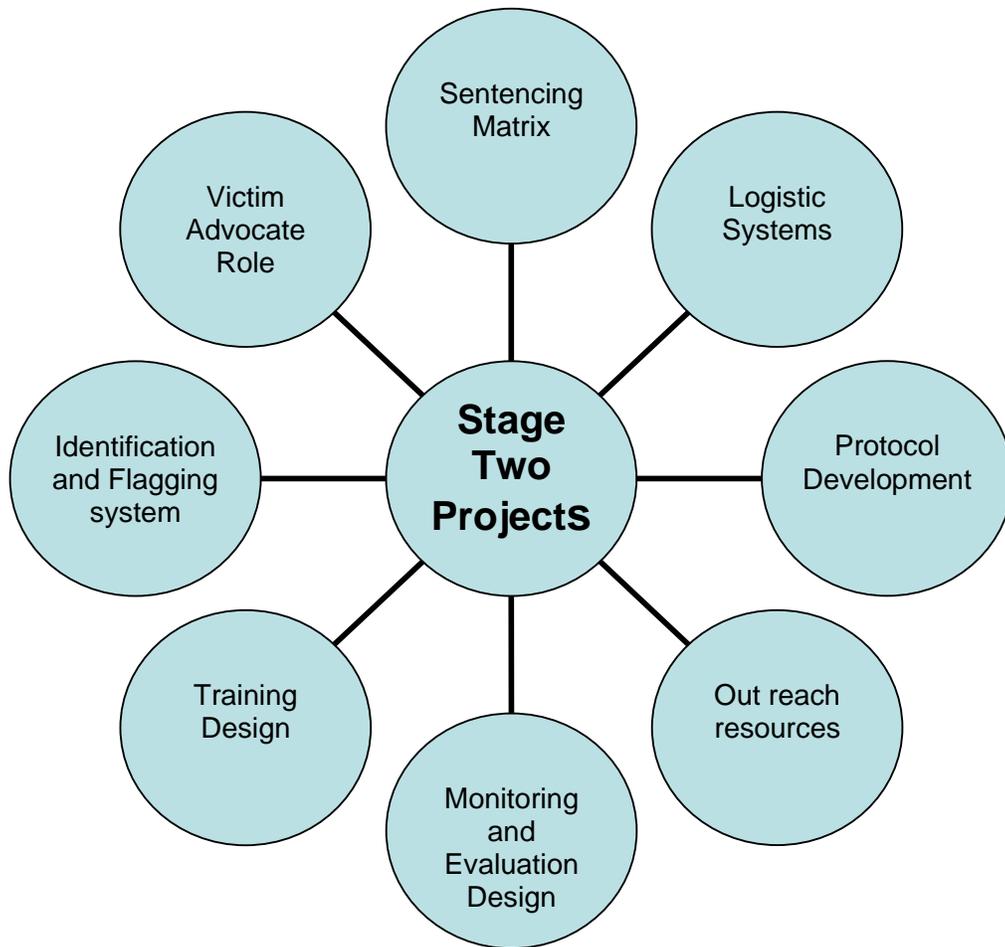
The stage two development of the Auckland SDVC involves projects being undertaken by task groups appointed by and reporting back to the steering group. Some projects will involve more background research and key personnel than others. Smaller projects like logistics might only involve 1 or 2 people. The Steering group will need to ensure that one person per task group is appointed to take responsibility for the project, regardless of the scope of the project, and a date for reporting back to the steering group is set. The amount of time required for projects to be undertaken and completed will vary.

Steering group meets to

- Develop shared definition of domestic violence based on 1995 DV Act
- Agree on basic principles of the court
- Accept ultimate court design
- Develop an initial agreement for stakeholders to commit to the steering group, attend meetings and to undertake projects
- Write a strategic plan for a strategy of what has to be done and then to appoint the appropriate people to make up the task groups
- Organise systems of administration of both groups, minutes and follow up actions
- Oversee the establishment of a monitoring group
- Develop local protocols agreeing roles and responsibilities
- Develop local protocols agreeing information sharing between agencies
- Organise monitoring systems across the dv court to track and evaluate cases.

Working groups established to

- Develop task groups to take on key projects such as information systems, forms, victim advocate, protocols, building
- Discuss ways to support Family Court cases being integrated into the specialist court



Projects

Monitoring and evaluation

- Create an evaluator position description
- Build in to the court on going data collection from the outset
- Standardise forms and language used in the court
- Design information checklist
- Design a data analysis record sheet/data base
- Design a template for victims to record their experience at court

Training package and schedule

- Develop a specialist training packages for Judiciary, prosecutions, counsel, court staff, Community Corrections, security personnel
- Develop cross training schedule
- Develop a general training package for people connected to but not located in the court

Identification and flagging system

- Determine who will coordinate case information

- Develop a system to identify and code all prosecution domestic violence cases
- Establish generic ID for domestic violence files for instance, a stamp
- Link ID system to monitoring role.

Victim advocate role

- Discuss objectives and key responsibilities for the role with Auckland City victim service groups
- Create links and protocols between victim advisors and independent victim advocates
- Design victim services for SDVC days and non court days, based on the scope (full or part time) of the advocate role
- Create protocols for information sharing and possible co working with prosecutions
- Create flow chart of victim advocate tasks
- Consider safety in the design of victim services and also in the location of the advocate within the court.
- Identify and develop new strategies to enhance victim safety at key stages in the court process, for instance, bail applications, giving evidence etc.

Sentencing Matrix

- Analyse previous prosecution outcome data
- Research NZ and overseas models
- Put together sentencing matrix
- Host community training for key stakeholders on the matrix

Logistic systems

- Develop appropriate forms for file in-take, information sharing between jurisdictions, case progression check lists
- Develop rostering schedule
- Develop a data base or register to collate information pertaining to the court

Outreach resources

- Court resources for court users/ public and professionals (pamphlets, Benchbook, copies of protocols for all stakeholders)
- Media information releases

Roles and Responsibility

Staff Preparation

Critical to the successful and effective operation of a specialist domestic violence court are the key personnel who make it work. As far as possible all people involved in the implementation of the Auckland SDVC need to have a clear understanding of their role, what it entails and how they are part of the whole court system and everyday workings of it. The objective of the court can be let down by a weak link in one area. The communication strategy developed by the Judge will play a central role in ensuring all participants are 'on-board'. It is imperative that the personnel all share a common understanding of the principles and objectives of the court and are able to work collaboratively to ensure the court delivers the best service possible.

'The most effective response is created when all parts of the justice system coordinate their operations and functions in collaborative effort to address the problem.' (Sack E, 2002 pg 1)

'The courts, the personnel who staff them, and the administrators who oversee them must also embody an attitude that places increased value on these cases through selection of appropriate judges to preside over the courts, emphasizes increased attention to procedures and case handling and gives a high priority to instilling public confidence in these courts.' (Sack, 2002, pg 3)

The SDVC model offered in this report is based on a best practice approach. A key part of the new court design relies on the introduction of some new roles and training of existing staff to support court processes and ongoing development. It is understood by the report writer that there is no additional funding set aside for the development of the Auckland specialist domestic violence court. A lack of funding may well impact on the new roles proposed but in some cases it has been possible to suggest short term alternatives until further funding is made available.

Training

Fundamental to the successful implementation and ongoing function of the court that all personnel involved are adequately trained in the dynamics of domestic violence and on the need to focus on victim safety throughout the process. Training opportunities will need to be made available to all stakeholders as part of the planning process and before the implementation of the Auckland SDVC. The resource manual produced by the UK Home Office and Crown Prosecution Service recommend specialist training as a core component of the court stating

'The training of staff from all agencies in the specialised nature of DV was identified as an important element of the success of the pilot SDVCs. This contributed to a greater awareness of the dynamics of DV, the approach needed to support victims and the importance of effective evidence gathering.' (2006, pg 28)

Specialist domestic violence training is widely delivered to judges in America by the National Counsel of Juvenile and Family Court Judges. The specialist training gives the judiciary the confidence to consistently keep victim safety and offender accountability at the centre of their decision making. It would therefore be a huge advantage for all judges involved in the Auckland SDVC to have the benefit of domestic violence training so that they can take their role with confidence.

New Roles

Specialist coder

International SDVC models promote specialist approaches to identification and flagging of DV cases as they come to the attention of the court. Currently, police files are delivered to the court each morning and information is checked and files are sent to the appropriate court room. The Auckland SDVC needs a specialist coder at the initial stage of file intake at court. This person needs to be able to identify the dynamics of domestic violence in operation from reading a Police Summary of Facts. Often domestic violence cases are hidden in minor charges such as wilful damage, trespass and careless driving. On closer reading though, some of these offences relate to incidents of domestic violence. The qualitative evaluation of the Gwent SDVC in UK highlighted the ongoing difficulty of expecting police to successfully flag DV cases

“There is a problem in identifying DV: CPS and Home Office definitions are different. It is not, however, the fact of the difference that cause some to be incorrectly flagged, because run-of-the-mill, obvious DV cases are being missed. Police have so many things to think of, and there is still an attitude of “it’s only a domestic.” These cases are given no priority in their minds.” (CPS, 2004, pg 13)

Identification of cases should be encouraged by all stakeholders in their independent work. However, the initial scope of the SDVC is to respond to incidents where an arrest has been made. The specialist coder therefore, plays an essential role in the court in promoting the early detection of domestic violence and thereby enhancing the potential for early intervention.

The role of the specialist coder will need to be part of planning design and help develop a way to flag DV matters clearly and enter data into a domestic violence database at the court. Key points to consider regarding identification of cases are:

- Definition of domestic violence is shared
 - Breadth of cases to be considered by the court is understood at the outset
 - Flagging and identification systems can record numbers of cases as they come into the court
 - Training for court staff in identifying, recording, responding and referring is given at the outset
 - Tracking of each case so that they are followed through the system
 - Information sharing is enabled by protocols which make exchanges safe and undertaken with confidence
- (Specialist DV Court Programme, Resource Manual, 2006, pg 18)

Victim advisors at the Auckland District court currently read all police files that come into courtroom 1, checking the Summary of Facts for clues as to potential victims in cases. It would be possible that a victim advisor (acting as the specialist coder) assists the current police file in-taker when files first come to the court and clearly flags cases as domestic violence and therefore cued for the SDVC.

	Key Roles	Key Responsibilities
Specialist Coder	Read all incoming police files each morning to identify those which involve DV	Bring understanding of dv dynamics to court processing
	Flag files with ID code and separate from all other court files	Enhance identification of dv in all criminal matters
	Enter file names into court data base and keep a written record of each file to pass to specialist court registrar	Contribute to overall data collection of the court
	Pass victim's names to victim advocate	Enhance victim safety at the court
	Collate data for the Monitoring and Evaluation Coordinator	Contribute to the assessment and streamlining of the SDVC

Information Management Coordinator

The Information Management Coordinator (IMC) is a court appointed position which is key to the safe and efficient progression of cases through the SDVC. This role requires a trained court worker who understands the seriousness of domestic violence and the dynamics of it. Presently court registrars are responsible for filing relevant court papers with the correct court file. The opportunity to track cases and relevant documents has been made easier through the case management data base.

Overseas models which use an IMC, have established roles more complex than that of existing court clerks. A clear example of the merits of this role is shown through a case study in Westchester, New York, an integrated domestic violence court. In this court a court case manager ensures that the judge is fully informed at each court appearance.

“She is responsible for obtaining information from several court partners on each case prior to each court date...In situations where non-compliance occurs substantially before the next scheduled court date, or in an emergency, the Case Manager, after consultation with the judge, can advance the court appearance and notify all parties to appear.” (Sack 2002 pg 45)

A system for safely storing information and records may need to be developed at the court and the Information Management Coordinator could lead this project. Any work on a SDVC data base could be overseen by this person. The Information Coordinator will alert the evaluation and monitoring personnel of trends, problems and good examples of information exchange, report filing etc.

The IMC position differs from the Monitoring and Evaluation Coordinator (MEC) in that the IMC is a court insider responsible for everyday information physically being gathered and placed on files. The MEC role is more removed and academic and uses the information available from all court stakeholders to improve court processes overall.

	Key Roles	Key Responsibilities
Information Management Coordinator (IMC)	Track files and ensure all stakeholders have submitted required information before court hearing	Oversee how information exchange is managed to support the process of the court.
	Obtain information from intervention programmes and government agencies on compliance by defendants	Support offender accountability
	Serve as a conduit for emergency information from all agencies to the judge, which may require a case to be advanced	Support victim safety and offender accountability
	Help victims link to advocates	Strengthen referrals within the court system
	Provide information to agencies on case status	Support information exchange with all stakeholders
	Arrange regular meetings and cross trainings	Enhance court processes and trouble shooting between stakeholders
	Troubleshoot day to day concerns	Problem solve
	Initiate larger policy discussions with court partners.	Continue to evolve court processes
	Establish data collection and evaluation plan to assess the effectiveness of the DV court project.	Support ongoing monitoring and analysis of the SDVC

Monitoring and Evaluation Coordinator

Research on court processes and outcomes are limited currently. The proposed Monitoring and Evaluating Coordinator (MEC) is a new position which would advance outcomes for the specialist DV court. This role is essential to the streamlining and successful roll out of the court. Currently it is extremely difficult to gather information relating to the intake and progression of cases at the court. The Auckland Family Safety Team have set about monitoring some files originating in police arrest and following their progression through the court progress in terms of prosecution, bail, sentencing and victim advocacy services. However this team is only focussing on files within the Onehunga area and do not have the capacity to track all files. The Waitakere Specialist Court has an evaluation being undertaken by students from Massey University. The Manukau court has not yet been evaluated. There is no channel for feedback about court processes, problem shooting or input from victims themselves into the court response.

In the UK, survivor consultations are regularly organised and conducted by Standing Together. Standing Together is a multi-agency co-ordinated response partnership based in Fulham, London which works to increase victim safety and offender accountability. As a result of these survivor consultations effective procedural and institutional change is generated (Standing Together against DV, Fulham metropolitan police, internet). Victim safety is a central aim of the Auckland SDVC. This can be enhanced by having regular focus groups for women who have been victims of family violence, and using these as a source of continuous feedback. The Monitoring and Evaluation Coordinator can ensure that this feedback is consistently gathered. The feedback will highlight to the court things that are working well and improvements that need to be considered.

The MEC should be part of the implementation of the court, but this role could be a contracted position rather than an ongoing full time role. Monthly reports should be completed and all key stakeholders would need to feed regular information, statistics and trends to the coordinator for collation, analysis and writing a report to be shared with all stakeholders. If cases fail to proceed or succeed then the coordinator could go over the case, check that court best practises are being followed, provide feedback to prosecutors, judiciary, frontline officers and victims advocates. This process seeks to make the court functioning more transparent and interrupts unsafe practices before they become institutionalised.

A data collection and evaluation plan will need to be developed at the outset and protocols designed to allow for continual and consistent information gathering. Definitions and measurements need to be uniform through standardised forms and language. Clear guidelines need to be put into place explaining:

1. who is responsible for receiving the data
2. how the data will be transferred to the coordinator
3. what outcome measurements will be the focus of an evaluation
4. What comparisons will be made with other courts in Auckland

The scope of data collection is wide. Data collection might include:

- Types of Domestic violence cases received by the court
- Percentage of victims having contact with advocates
- Domestic violence arrests by type i.e. MAF, Trespass, Breach of PO
- Arrest rate for offenders who flee the scene of a domestic violence incident
- Percentage of dual arrests and female arrests

- Dismissal rates
- Sentencing outcomes, including court-imposed sanctions
- Recidivism rates
- Compliance with court-ordered mandates

A good practice example of data collection is cited in the Home Office guide to establishing a specialist court. At the West London Magistrates court spread sheets of all cases flagged as Domestic Violence are created and the Standing Together's Data Officer collates, analyses and presents reports to the SDVC management group based on these spreadsheets (2006, pg 36).

Independent Victim Advocate

It will be critical to the success of the Auckland SDVC to have independent victim advocates involved. Judge Johnson highlighted the role constraints of victim advisors in their requirement to be a neutral court employee, explaining that they were not an actual substitute for an advocate for victims (November 2005, pg 9). In the Waitakere Court community advocates are present on the domestic violence days and undertake all contact with victims. Victim advisors refer domestic violence victims to the community advocates and will only see them if a community victim advocate is unavailable. This cross over system has caused friction at the Waitakere court. At the Manukau Court, victim advisors undertake all contact with domestic violence victims.

Overseas research has shown that domestic violence victims value the service provided by victim advocates. The evaluation of SDVC pilots involved interviews of 24 women from Croydon and Gwent courts about their experiences. The overwhelming majority of women interviewed were very satisfied with the level of support and advice that was provided by advocacy agencies at this stage. The reasons given for satisfaction across both sites included receiving good practical and emotional advice, and prompt, regular contact from a variety of agencies.

"I think they (advocates) do a lot for a woman to help them through it. I think there should be more people like (the advocate) who support women, she made me comfortable and helped me" (interviewee from CPS, 2004, pg 25)

This is likely to be a contentious issue and there will need to be considerable discussion about the victim advocate role for it to be successfully implemented into the Auckland SDVC. There will need to be at least one, but more likely 2 independent victim advocates who work only with victims of domestic violence. The independent victim advocates (IVA) will need the following skills:

- Employed outside of the MOJ to retain their independent advocacy potential
- Professionally trained and experienced in working with victims of domestic violence
- Be knowledgeable about court processes
- Have strong networks in the community, including contacts with culturally specific advocacy services and programmes.
- At least one of the advocates will need expertise in working with children for cases specifically where children are the primary victims. Children in court need a specific intervention that allows them to feel safe and to have someone to talk to (CPS, 2006, pg 41)
- The IVA will need clear authority via protocols to exchange information with all court stakeholders, including the police

- The IVA will need access to the MOJ database for case progression updates etc
- The IVA should be closely aligned with the prosecution team to assist in promoting victim participation
- A triage centre must be provided for in the court where advocates can meet with victims to provide an emergency and crisis response, undertake risk assessments, assess need and make urgent referrals to service providers, safety plan with victims
- Contact from the victims with the IVA must be voluntary

	Key Roles	Key Responsibilities
Independent Victim Advocate	Crisis assistance, including refuge referrals, counselling and safety planing	Support enhanced victim safety at the court
	Ability to forward the victim's views in the court	Promote voluntary victim participation
	Undertake risk and safety assessments and submit this information to the court for bail and sentencing decisions	Enhance victim safety and offender accountability
	Assist victims in obtaining a Protection Order through the Family Court	Build referral systems with the Family Court Coordinators and clerks
	Ensure alternative ways of giving evidence are available to adult and child victims of domestic violence such as video link, screens and prior recordings.	Work with prosecution service at court to promote the need for special measures.
	Provide referrals to longer term counselling	Ensure information about community services is up to date and available to victims at the court
	Provide referrals to legal services, including help with Immigration issues, day to day care and contact and matrimonial property law	Support victim's access to legal support

	Provide referrals to services for children, including crisis intervention, counselling, medical care and CYF Education role within the court regarding dynamics of domestic violence	Ensure safety of children is upheld in the court and support services are available
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The independent victim advocates can work towards improving the court's response to victims through their on going work both during and after the criminal justice process. IVAs have specific knowledge regarding outcome of decisions such as bail decisions, referrals to other services, or if the victim's risk was increased through court practices. This information can be consistently fed to the Monitoring and Evaluation Coordinator. Ongoing contact and advocacy for victims beyond the court hearing can be undertaken by victim advocates from Preventing Violence in the Home who are already based in the Auckland community and offering a longer term service.

It is unlikely that there will be funding for the IVA role in the new specialist court. Initially the new advocates may have to attend the court on specialist court days only and then return to their independent agencies on non court days. It is hoped when funding is available for this role advocates can develop a consistent role at the court increasing their role in victim advocacy, reporting back to the EMC and working to improve victim services and processes at the court.

Central Court Roles

Specialist Judge

“With one judge hearing all the cases, the offender becomes familiar to the court. ..The consistency of one judge seeing all the defendants is the best feature of the Home court.”

(Carole Taverna, Witness Assistant for the Sacramento District Attorneys office in Helling, 2005, pg 6)

A judge or group of judges should take responsibility for the SDVC in Auckland. Judges with Family Court backgrounds would be preferable due to their experience, understanding of domestic violence and ability to make Protection Orders and the possible extension of services to include Family Court matters in the future. Continuity of case handling is a key advantage of a specialist court.

Strong judicial leadership will aid the court in becoming an important part of a co-ordinated response to domestic violence in Auckland. Guidelines for creating a DV court in America make clear the importance of the judicial role.

‘Judges can use their authority to show that a court takes domestic violence seriously. When a judge demonstrated his or her commitment to a coordinated community approach to domestic violence prevention and response, buy-in from other court and community members is facilitated.’ (Sack 2002, pg 7)

Everyone attending the court looks to the judge to be the leader and to set the tone and standards for the court by creating a respectful, impartial and courteous environment. This ensures that everyone participating in the court takes their own roles seriously and with confidence that justice can be achieved.

‘When response and enforcement are swift, certain and appropriate, confidence in the system is enhanced, both within and without.’ (Battered Women’s Health Project, internet, 2005, pg 10)

A useful resource overseas jurisdictions have developed include the concept of a Judicial Benchbook. This book includes helpful information and resources, such as the sentencing matrix guidelines to assist judges in upholding a consistent approach to domestic violence.

	Key Roles	Key responsibilities
Specialist judges	Sit in SDVC Day and hear all cases	Read all information pertinent to the matter
	Make initial bail decisions and variations	Ensure information from the victim supports bail decisions.
	Give sentencing indications based on a sentencing matrix	Ensure victim safety is always considered
	Ensure cases dealt without delay	Pressure defence counsel to advance matters to avoid defended hearings if possible

	Give consistent appropriate sentences from a sentencing matrix and prioritise supervision based sentences.	Ensure offender accountability by monitoring supervision contracts.
	Make Protection Orders when consent is given by both parties.	Ensure judicial decisions reflect community abhorrence of dv and enhance victim safety

Specialist Prosecutor

The Auckland Prosecution Service is a strong team and has a consistent response to domestic violence. This is reflected in the fact that the Auckland District Court has the lowest numbers of withdrawals of Male Assault Female prosecutions in a comparison between Auckland, Waitakere and Manukau courts for the year ending 30 June 2006 (Data from case management system, via Justice Data Warehouse). The Auckland SDVC should be serviced by a specialist prosecutor(s) team. Currently Auckland prosecutors are rostered into all courts at the Auckland District court. However, a key component of a successful DV court is a specialist approach to prosecution. A 1996 evaluation in Winnipeg, Manitoba found that specialist prosecutors were 'the single greatest factor responsible for the court's success' (Ursel, 1997, pgs 271 -274).

	Key Roles	Key responsibilities
Specialist Prosecutor(s)	Case identification	
	Information exchange with <ul style="list-style-type: none"> ➤ counsel ➤ victim services ➤ probation ➤ judiciary 	
	Forward submissions actively in court based on police evidence regarding bail and sentencing	Ensure offender accountability and victim safety
	promote a pro-prosecution, 'no drop' approach	
	Be a key contact for police who come to the DV court.	Offer a strong role model of responding to domestic violence seriously and with victim safety at the forefront.
	Feed back to frontline police officers <ul style="list-style-type: none"> ➤ evidence gathering ➤ case building ➤ appropriate charges ➤ outcomes of cases 	

	lead the implementation of special measures for victims in court	reference Evidence Bill section 99 'directions about alternative ways of giving evidence'
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Defence Counsel/Duty Solicitors

'While the defence bar may not agree with some of the DV court goals or procedures, the defence's perspective and it's important role in protecting due process and defendant's rights are essential in ensuring the court's credibility and effectiveness' (Sack, 2002)

Defence counsel may perceive a bias against defendants and may work against the creation of a specialist court. Helling (internet, no date available) states that involving defence counsel in the process of planning from the outset can help relieve this concern. Helling cites an example in the Clark County domestic violence court

'Although public defenders were "reluctant" to assist in its creation, it did give them an opportunity to voice any misgivings about the court's creation and operation.' (pg 19)

To understand the purpose of the SDVC and what is happening with the court defence counsel must be involved in the planning and organising of the specialist DV court in Auckland from the outset for the following reasons:

- To participate in the development of court protocols
- To determine specialist training requirements
- To take part in the development of information exchange systems

	Key Roles	Key Responsibilities
Defence Counsel	Educate defence about function and processes of SDVC	Promote offender accountability
	Promote early guilty pleas from defendants	Resist undue delays to the court
	Seek to progress matters so that defended hearings are a last measure	Promote victim safety in their dealings with the court
	Discuss sentencing guidelines with defendants	Ensure defendants have all the information available to them

Victim Advisor

Currently, victim advisors oversee the participation of victims of domestic violence in the court process. This involves VAs contacting victims to inform them of bail conditions, case progression and inviting victims to put forward their view via the VA

to the judge. Some support of victims is provided in court processes such as court tours and explaining how giving evidence will happen. Victim advisors are not currently resourced to support victims when they give evidence in defended hearings and trials. Outside support people from Preventing Violence in the Home or Victim Support are sometimes contacted and asked to provide this service.

The new role of the independent victim advocate will provide support to victim advisors at the Auckland court. Victim advisors will continue to see victims from all other victim crimes that come to the attention of the court. However, all victims of domestic violence will be referred to the IVA for follow up contact and support. Victim advisors will need to work alongside independent victim advocates to make the Auckland SDVC a success.

	Key Roles	Key Responsibilities
Victim Advisors	Act as specialist coder to identify DV files when police files come to the court, daily	Ensure all domestic violence matters are identified and referred to the SDVC
	Assist victims who come to court on non SDVC days	Enhance victim safety at the court
	Supply information pertaining to the court case to victims	Keep up to date records and ensure victims are informed at all times where possible

Specialist Probation Officer

“Until recently, corrections departments have been absent from the arena of domestic violence service provision. Specialist legal responses have brought them to the table to be responsible for the management of offenders, highlighting the role of corrections agencies in the safety of victims and their families, broadening their focus to the community at large.” (Stewart, 2005, pg 16).

One of the main aims of a specialist domestic violence court is to promote offender accountability. Probation has a central role to play in ensuring that this aim is made a reality. Probation Services play a key role in the Auckland District court currently with court based services. However, information sharing between probation and other key service providers, such as victim advocates, in the court is currently limited and relationships are reliant on personal links rather than consistent practices and protocols. For this reason it is imperative that a specialist probation team are part of the Auckland SDVC and are trained in dynamics of domestic violence. The probation service will need to develop clear protocols outlining how information might be clearly exchanged with programme providers and services for victims.

The probation service in Auckland currently contracts a number of stopping violence programme providers, who are also credited with the Auckland Family Court. Referrals from probation to men’s programmes are not as great in numbers as previously, but the machinery is in place to cope with increased referrals from the

Auckland SDVC. One constraint exists regarding funding by probation of attendance at men's programmes, but this will be discussed later in this report.

There will need to be discussion at the planning stages between probation, men's programme providers and women's advocates about the safe use of programmes for sentencing options. In an Australian survey cited by the Australian Clearing House, three quarters of women reported experiencing fear and anxiety at the time the man commenced that programme because of their anger at being compelled to attend. (Laing, 2002, pg 27)

The Auckland SDVC will rely on the probation service to perform a monitoring and evaluation function with regard to defendants attending stopping violence programmes under court ordered sentences/orders and conditions. It is hoped that programme attendance will be part of sentencing directions rather than used as a tool for therapeutic case progression (this only stalls matters and removes overall accountability).

In the current system offenders often volunteer to undertake a stopping violence programme while on bail, and their case is remanded off for a future date. It is intended that when the offender returns to court in the future the stopping violence programme will have been completed and he will be 'credited' for this in the judge's consideration of appropriate sentence. However, stopping violence programme providers and victim advocates know that motivation to attend a programme often diminishes once court appearances end. In addition remanding court matters for programmes to be completed (up to 20 weeks) stalls timely finalisation of matters which benefits, victims, offenders and the court itself.

It is unsafe practise to rely on stopping violence programmes as a successful rehabilitative measure for all domestic violence offenders. These programmes do not have the same proven success as other rehabilitative programmes like drug programmes, and do not guarantee that the offender will become non violent in the future. Stopping violence programmes should be a part of sentencing options for offenders but not the only sentencing option considered. If probation are directed to consistently undertake supervision sentences for offenders then stopping violence programmes can be built into these sentences along with a range of other directions, and probation can take responsibility for monitoring attendance at programmes.

At the Brooklyn Felony Domestic Violence Court in Brooklyn NY, defendants are intensely monitored both pre and post-disposition.

"All defendants sentenced to probation are subject to intensive monitoring by a dedicated domestic violence unit at probation. Such monitoring includes weekly meetings as well as home visits, and where appropriate, additional conditions such as programme attendance.. These probationers also return to court every two to three months for a status review by the domestic violence judge."
(Sack, 2002, pg 20)

In Auckland, probation should take responsibility for conducting monitoring hearings outside of the court days and should:

- Correspond with stopping violence programme coordinators regularly checking attendance and completion information.
- Inform offenders that they are to appear at a monitoring court and on what date
- Manage the monitoring court and staff it

- Charge offenders with breaching their supervision contract if they fail to attend the programme and ensure that the breach is entered into the next available SDVC to be considered by a judge
- Offer victims the chance to be involved in this process and notified of any failures to attend.

	Key Roles	Key Responsibilities
Probation	Provide information to the court regarding history as requested.	Ensure the judiciary has the best information to make informed decisions
	Prepare pre-sentence reports as requested by the court, including Emotional Harm reports	Ensure all relevant parties are interviewed in the writing of these reports and utilise a risk assessment tool for any recommendations made to the court.
	Monitor defendants sent to stopping violence programmes and report to the court	Ensure defendants are made accountable for completing their court ordered sentences
	Use community sentences that are appropriate if offenders are sentenced to supervision and make use of the monitored time	Ensure offenders are given the opportunity to rehabilitate and make changes to problems in their lives, i.e. violence, alcohol, drugs, gambling
	Advance prosecutions for breaches of probation and parole	Monitor offender compliance with sentences
	Provide ongoing information to the IMC and MEC regarding referral to perpetrator programmes, starting and completion dates and length of time from sentence, to start of group work	Ensure information fed back to the court to enhance court processes and outcomes
	Conduct monitoring hearings outside of the court days, ensure victim have the chance to be involved	Support a community effort to increase offender accountability and victim safety

Specialist Court Registrar

Specialist court staff enhance the running of specialist domestic violence courts. The Auckland SDVC needs a court registrar who is trained in the dynamics of domestic violence. Court staff, including a court registrar, should be included in the development and establishment of the specialist court model and protocols. The success of court processes depends to some degree on their attitudes and levels of service to clients who use the court (Stewart, 2005, pg 17).

The specialist registrar role should be offered to a court staff member who shows an interest in the SDVC.

	Key Roles	Key Responsibilities
Specialist Court Registrar	Uphold SDVC protocols in the court room in terms of fast tracking court dates when scheduling adjournments	Ensure court processes uphold court protocols
	Note security matters and alert the correct personnel	Support victim safety at the court
	Alert the judge to any inappropriate practices by counsel or defendants	Support victim safety at the court
	Ensure that victim advocate material is before the judge and all other relevant parties	Ensure the appropriate information is before the judge to inform decision making
	Establish referrals to forensic liaison, drug and alcohol assessment services, if ordered	Support smooth and speedy access to ancillary services
	Make referrals to victim services if required.	Support victim input and victim safety
	Ensure data base records and files are maintained and updated consistently.	Feed information to the MEC regularly

Ancillary Roles

The Establishment of a Men's Programme Provider

"It appears interestingly, as an artefact of the development of specialist domestic violence courts, possibly coincidental, but not essential in the light of the lack of compelling evidence that treatment of education programs for perpetrators of domestic violence actually make a difference in enhancing the safety of victims and their children and reducing domestic violence. Overall, it seems that, if a perpetrator program is a component of a specialist domestic violence court program, it could be used as the vehicle for monitoring compliance and/or behaviour of offenders/defendants"
(Stewart, 2005, pg 15).

As discussed in the probation section of this report it is fundamental to the success of the court that stopping violence programmes are not held at the core of the court process. Stopping violence programmes offer one possible response to domestic violence but they do not have the proven effectiveness to establish them as the only safe response to domestic violence offenders. Stopping violence programmes have not in New Zealand or internationally been evaluated and proved to have a similar success rate as drug and alcohol and sex offender programmes. Stopping violence programmes provide an opportunity for offenders to change their behaviour, but this change is entirely reliant on the willingness of the offender to actively engage in the programme and to deliberately make changes to their own behaviour and opinions. Referrals to programmes can be a component of a supervision sentence but not be the entire sentence. These programmes are not the 'fix it' solution to domestic violence in New Zealand.

Referrals to a men's programme provider should be made via probation service rather than directly from the SDVC. It is preferable that attendance at stopping violence programmes is funded and monitored by probation officers. If directed by the court, except in the instance of a Protection Order being in place, the attendance at the programme can stall the finalising of the criminal matter and place undue focus on 'offender rehabilitation' rather than 'offender accountability'.

Therefore it is important that a men's programme provider be linked to the Auckland SDVC so that referrals can be referred if necessary, monitoring of attendance can be undertaken and fed back to the court and any safety issues raised. The appropriate men's programme provider should be accredited by the Auckland Family Court and be contracted by the probation service. It is important that men's programmes do not stand alone, but rather are a part of:

- a wider system with victim safety at the centre
- screening of perpetrators for suitability
- interagency working
- access for the known victims of men accepted on to the programme to appropriate services
- clear consequences for the man if he fails to comply with court orders, e.g. prompt return to court for men under the supervision of the probation service.
(Home Office, CPS, 2006, pg 45)

The programme providers will need to actively participate in the planning stages of the SDVC as they have 'expert' knowledge regarding offender behaviour.

Trained security person

Court is potentially a dangerous place for victims of domestic violence. It is important that the Auckland SDVC has a trained court security officer available on SDVC days. This person needs to be aware of the dynamics of domestic violence in order to be able to understand the needs of victims using the court and ways to improve their safety and that of court staff.

At the design phase of the SDVC, the security officer could be involved in conducting a physical review of the public areas of the court building. The American manual for establishing a DV court recommends that this overview should include

“ a walk through of the route that a victim would take to the courthouse, including car parking facilities, the domestic violence court; petition room; advocates office; and child care centre. Planners should be alert for security concerns in all locales, and discuss changes to improve safety, including the posting of security officers and the use of screening machines.” (Sack, 2002, pg 37)

	Key Roles	Key Responsibilities
Specialist Security Officer	Ensure that intimidation tactics (overt or covert) monitored and responded to and reported to the court registrar	Ensure safety protocols and procedures are adhered to
	Provide escort to cars, public transport or the victim advocates office is requested	Enhance victim safety and participation at the court

Dedicated Police Escort

A large number of arrests in DV matters result in offenders being taken into custody. The specialist DV court in Auckland will require a dedicated police escort to ensure that defendants are escorted to the court room as required. It would be beneficial for this person to have some training in DV so that the seriousness of the crime is understood and any safety concerns they have regarding a particular defendant might be relayed to the court via the prosecution team, e.g. verbal threats made against the victim to the police escort.

Drug and Alcohol Assessor

Drugs and alcohol are not the cause of DV but are often components of abusive incidents. The Auckland SDVC requires a contact from a drug and alcohol assessment programme such as the Salvation Army who is trained in the dynamics of domestic violence and understands the context that the violence occurs in. This contact should be available to the SDVC on court days to assess defendants and also report back to the court on any programmes that might have been attended. However, it is hoped that any drug and alcohol assessment courses are managed through Corrections, following sentencing rather than as tracked remands in the SDVC.

Mental Health worker

Similarly there are times in DV cases where defence counsel advance that mental illness is an issue for a defendant. For an adequate assessment to assist the court, the mental health forensic worker at the court needs DV training to clearly be able to isolate mental health issues from power and control tactics.

Protocols should include the timely assessment of offenders and filing of reports to the court by forensic workers.

CYF Call Centre

Although not a key role in the Auckland SDVC, a liaison person nominated by the Child Youth and Family Call centre should be established at the outset of planning for the DV court. Children are often witness to domestic violence and are sometimes assaulted by a violent family member.

The Auckland SDVC will have the ability through the establishment of new information management roles, to request, collate and distribute key information with regards to ongoing victim safety. The safety of children should be a central consideration of the court and is directly influenced by decisions made which impact on the safety of mothers.

There is not presently a formalised channel for information sharing between the courts and Child Youth and Family, unless a social worker report is requested in the Family Court by a judge. The Auckland Family Safety Team which has been piloted since June 2005 has made excellent progress in the collation and distribution of information pertaining to children's safety between Child Youth and Family, advocates and the Police. The experiences of the Auckland FST could help inform the development of SDVC protocols relating to CYF referrals. Protocols drafted for the SDVC should include clear information sharing guidelines for information regarding risk to children. It is also advisable that CYF risk assessments can be fed into bail decisions and sentencing decisions at the SDVC. The victim advocate will be a key link in identifying cases where children's safety is of significance and making referrals to Child Youth and Family or passing on requests for further information.

Interpreter Services

Once background court demographics are assessed as part of the initial work for the court then a clearer understanding will be available to isolate what interpreter service might be required and in what capacity. Presently victim advisors loosely estimate that 35% of their clients are Pacific Island, 30% Maori and the remainder made up of other ethnic groups including Pakeha. International examples, such as those from England are available to ensure screening and skill base is appropriate for specialist DV courts (Home Office, UK, 2006, pg 32).

Currently interpreter services are available to the Auckland District Court. However, due to the current set up of the court, interpreters tend to be more utilised by defendants than by victims of domestic violence. Nevertheless, victims need easy access to interpreter services at court to increase their ability to safely participate in the court process. Interpreters working with victims will need to have specialist training in the dynamics of domestic violence and are screened as 'safe' for this highly important role. It could be possible for interpreters for victims to be on call on DV court list days to ensure the best possible information is available for judges to aid in appropriate decisions being made.

Protocols

The Auckland SDVC will need to develop clear protocols between key agencies to enhance court processes and information sharing. The Waitakere SDVC provides an excellent example of clear protocols. The Manukau court has court processes clearly outlined. A part of the development of protocols will involve clear role responsibility and descriptions being drawn up for each sector of the court. This will be particularly important for victim services at the court.

The UK Home Office outlines some key points to remember when drafting a multi-agency protocol such as that which will be required for the Auckland SDVC (2006, pg 8)

- Identify and include the full range of agencies necessary to delivering the specific project or intervention and individuals within them
- Ensure that all these agencies agree and sign the protocols
- Remember that the protocol should standardize how agencies will respond to the issue. Protocols are most useful when they are practical and have an operational focus
- Check each stage of the protocol process for victim safety
- Negotiate the protocol with agencies, as they are based on shared understanding and aims
- Involve staff in the drafting of the documents to help ensure ownership of the processes being developed and implemented
- Create a flow chart of the protocol to help avoid pathways and options that result in “dead-ends”
- Clearly consider and address the aims and objectives of the partnership when writing the protocol.

Great international guidelines are available for the development of protocols for a SDVC and will be helpful to the steering group when this process is undertaken. Once developed, all staff need to be trained in the protocols and how to implement and follow them. The protocols will also need to be reviewed after a time and this process could be initiated by the MEC as a 6 monthly, or yearly project.

Clear strong SDVC protocols will provide groundwork for the development of a multi agency response group in Auckland. The Auckland Family Safety Team is currently looking into developing a multi agency group to respond to high risk cases in Auckland Central. This group will involve Police, CYFs, Preventing Violence in the Home and potentially other key partners such as Immigration, Housing NZ and Health Services.

Issues and Barriers

Information Sharing

Information sharing between agencies is a significant and well known problem in the Auckland Community. One of the first projects taken up by the Auckland Family Safety Team was to try and create a process whereby services in the justice system could confidently share information to improve safety and response. Unfortunately this project has been stalled and workers still wait for feedback from Wellington, where the project now sits. Information sharing protocols have been established in the two other courts in Auckland, and are certainly available from overseas models.

Time Demands for Development

It is understood that the SDVC in Auckland is expected to be implemented in March 2007. In consideration of the process detailed throughout this report is it unlikely that this can happen. Fundamental factors relating to the success of the SDVC, like information sharing require time to be developed and accepted by all parties.

March 2007 seems a difficult time to aim for implementation of the court for the following reasons:

- For most stakeholders a specialist DV court has not been considered prior to the taskforce report being released in July 2006.
- December and January are historically minimally staffed times in the justice sector.
- No family violence specialist staff are currently present in the court system in Auckland except for victim services.
- Training will need to be developed and delivered to a wide range of staff.
- Protocols will need to be agreed and designed and then signed.
- Rostering and scheduling is planned well in advance.
- Relationships are not consistent or transparent at the court presently.
- Key players need to be brought into the court who do not have a pivotal role presently such as independent victim advocates.
- Sentencing matrix and risk assessment tools needs to be discussed, developed and understood
- Logistical considerations such as, forms, rostering and roll out take time
- Staffing requirements need to be established such as, what new positions will be created?

Funding

We have the advantage of having the building blocks of the SDVC already in place in the Auckland District Court. Systems in place currently which can be built upon include, staff, location, forms, computer systems and knowledge of the court and it's function. With careful planning it is hoped that changes can be made without substantial additional resources. However, the proposed SDVC design recommended in this report attaches some new roles and levels onto this existing structure. Systematic analysis of caseloads will help identify if existing staff can be utilised for these new roles. There will be requirement for some funding of the new SDVC in the following areas:

- Training – cost of writing and developing training, delivering the training, training material and handouts.

- Resources – publications for court use, general documents about the court for the public, protocols developed and written up, new forms, media work, new data base system if implemented.
- New positions – independent victim advocate, information management coordinator, Monitoring and Evaluation Co-ordinator
- Men’s programme providers as numbers of referrals are likely to increase and the rate paid currently does not cover costs of programme delivery, programmes ideally should extend to 52 weeks so will cost more. This is not for discussion in this report but is a factor to be considered when developing the court in the future.

The work of the Monitoring and Evaluation Coordinator will provide information that could be shaped to enhance future funding applications.

Workload

It is expected that the implementation of a SDVC in Auckland will increase the workload of court staff and those associated with the court. Evaluation of Gwent and Croydon SDVCs in the UK showed increased workloads in both courts particularly for victim advocates (CPS, 2004, pg 19). An initial discussion with a Manukau Court victim advisor revealed that workload at that specialist DV court increased for them when the specialist court was introduced. This is a positive outcome of the court in terms of public confidence resulting in increased reporting to police, and better police case preparation. However costs to staff must be considered in the planning of the Auckland SDVC.

“Robert Morgester of the Sacramento District Attorneys office explained that the creation of the domestic violence Home court is “killing the court staff” because the increased workload can literally mean few if any breaks during the day. This type of regimen can be hard on judges, but it is brutal for court clerks who typically have hours of paper work to complete even after the judge leaves the bench.”

(Helling, no date available, pg 9)

High burnout is the result of concentrated high demanding roles with little breaks and support. Helling (no date available) explores this dynamic and offers some solutions

“In Sacramento the average duration for prosecutors in the domestic violence unit is also two years. By extension, a fixed rotation period for judges, court clerks and probation officers should minimize the burn out factor. The period of rotation should allow the system to capitalize on the person’s expertise gained through experience in the court for as long as possible while at the same time moving the person out of the specialized court before burnout affects the level of service’ (pg 14)

Physical Facilities

The Auckland SDVC needs to be a safe place for its users and most importantly victims who are expected to participate in the court process. Safety needs to be considered both inside and outside the courtroom. All international models of SDVC build into their planning stages consideration of physical components of the court and safety considerations. This work could be undertaken by a project group developed out of the Steering group. Key points to be considered include

- Separate entrances and waiting rooms for victims and defendants
- Security screening before entering the courtroom
- The physical presence of security officers

- Rules such as requiring the defendant wait 20 minutes after the victim leaves before departing
- Security escort to the victim's car may be required
- Training for all court staff on security protocols.

Consideration should be given to the development of free child care services at the court. Currently victim advisors will often mind children in their offices or in the police room, or court staff will 'watch' the kids while their mum is in court. This is not ideal. Many women required to give evidence at the court will have dependant children in their care. If they are expected to participate the court must make this participation possible by providing some formalised and safe form of childcare. A great example from Miami-Dade county in the U.S shows how this service can be built into the court

“Courtcare: A Better Place to Be, a joint project of the YWCA and the Administrative Office of the courts, provides a safe and supervised drop-in child care centre for children of parties who come to court in connection with domestic violence and/or family cases. A cheerful space located on-site at the courthouse Centre, Courtcare is staffed with trained child care providers, and is open during court hours. Its services are free, and children may stay in the Centre as long as their parent or guardian is conducting court business. Courtcare has security measures in place and ensures that only the parent or guardian who dropped off the children, or a person that parent or guardian designated, may pick them up” (Sack, 2002, pg 12).

New Relationships

The Auckland SDVC will bring people together who have not worked together before. The court will demand people to move out of well worn ways of working independently and into collaborative practices that demand information sharing and transparency. This shift will be challenging for some. There may also be opposition to the specialist court and this opposition will need to be aired in the planning stages through the steering group meetings.

Guidelines from America for establishing a specialist domestic violence court provide useful recommendations to help the developing court respond to challenges

Identifying issues and problem-solving productively by including,

- regular feedback from evaluation of the court and partner data,
 - regular self/and/or independent system audits
 - ongoing partnership meetings where concerns can be voiced
 - regular trainings to bring awareness to staff of new issues in domestic violence case handling.
- (Sack, 2002, pg 40)

Summary

Implementing a SDVC at the Auckland District Court will greatly improve the court's response to domestic violence in Auckland City. The improvement will be apparent in enhanced safety for victims, increased offender accountability and increased confidence in the justice system from the community. The report presented here has built upon both New Zealand and international models of SDVCs. Distinct needs of the Auckland community have been considered to create a unique and specialised model for this court. The underlying philosophical shape of the Auckland SDVC should be based on the following points:

1. Therapeutic, restorative or problem solving models are not appropriate for dealing with domestic violence cases. The reason for this is that each of these theoretical models have a primary focus on the offender either to heal the offender, to restore the offender in the eyes of the victim or the community or try to address the contextual problems in his or her life.
2. The primary theoretical underpinning the court should be that the specialist domestic violence court is there to use its power on behalf of the community to keep victims safe.
3. Therefore, the design of the court and its environs, its practises and the people who work within it should all be working together to achieve this objective.
4. We know from working with both victims and offenders that it is extremely important for both parties to have an unambiguous message delivered to them that violent behaviour is unacceptable, will not be tolerated and will incur consistent consequences.
5. This agency is contracted by the Ministry of Justice to provide stopping violence programmes. We do this because we firmly believe that people have the ability to change. However, we know from our experience and our ongoing reading of research literature that dramatic and ongoing changes for offenders attending a twenty week programme are unlikely.
6. A more realistic expectation of stopping violence programmes is that they offer perpetrators of violence an opportunity to change, and a short to medium term (6 months – 18 months) recorded decrease in physical violence.
7. Therefore we encourage the victims of violence “not to put all of their eggs in a stopping violence programme basket”. We suggest to our clients that a safe policy, if they wish to resume their relationship with their partner, is to wait for sufficient time to see that he in fact demonstrates a change of behaviour by his actions and not only his words of contrition. We would strongly recommend that a specialist court took a similar approach.

References

Auckland City Council website.

www.aucklandcity.govt.nz/auckland/introduction/people

Battered Women's Health Project. *Requisites for Any Court Handling Domestic Violence Cases*. U.S.A, 2005 available on

www.bwjp.org/documents/Dedicated%20courts.htm

Chief District Court Judge Russell Johnson. *The Evolution of Family Violence Criminal Courts in New Zealand*, Police Executive Conference, Nelson, New Zealand, November 2005

Crown Prosecution Service. *Domestic Violence. Policy for Prosecuting Cases of Domestic Violence*. U.K. 2005

Crown Prosecution Service. *Evaluation of Domestic Violence Pilot Sites at Gwent and Croydon 2004/2005*. Interim Report. U.K. September 2004

Crown Prosecution Service. *Specialist Violence Court System Project Manager*. U.K. 2006 available on website

www.cps.gov.uk/publications/agencies/dv/court_project_manager.html

Helling Julie A. *Specialized Criminal Domestic Violence Courts*, no publication date available, Violence Against Women online Resources,

www.vaw.umn.edu/documents/helling/helling.html

Her Majesty's Courts Service, Crown Prosecution Services and The Home Office. *Specialist Domestic Violence Court Programme*. Guidance U.K October 2005

Home Office, Department for Constitutional Affairs, CPS, and Her Majesty's Courts Service. *Specialist Domestic Violence Court Programme, Resource Manual*, U.K, March 2006

Laing Lesley, Responding to men who perpetrate domestic violence: Controversies interventions and challenges in *Australian Domestic & Family Violence Clearinghouse*. Issues paper 7. Australia. 2002

Lyon Eleanor. *Special Session Domestic Violence Courts: Enhanced Advocacy and Interventions*. Final report Summary. Connecticut. U.S. 2002

Ministry of Justice. Case Management System. Justice Data Warehouse. New Zealand. 2006

Ministry of Social Development. *The First report*, Taskforce for Action on Violence Within Families. New Zealand. 2006

Ministry of Women's Affairs. *Dedicated Domestic Violence Courts*. Wellington New Zealand. 2005

Sack Emily. *Creating a Domestic Violence Court*. Guidelines and Best practices, on behalf of Family Violence Prevention Fund, San Francisco. May 2002

Standing Together Against Domestic Violence, *Protocol between Standing Together Against Domestic Violence and Hammersmith and Fulham Metropolitan Police*. Available at www.standingtogether.iorg.uk/partnership.html

Stewart Julie. Specialist Domestic/Family violence Courts within the Australian context in *Australian Domestic and Family Violence Clearinghouse*. Issues paper 10. Australia. 2005

Ursel E. J. The Possibilities of Criminal Justice Intervention in Domestic Violence: A Canadian Case Study 1997, cited in Stewart J, *Australian Family Violence Clearinghouse*. Australia. 2005

Waitakere District Court. *Protocols Relating to Family Violence Court at Waitakere District Court*. New Zealand. June 2005.