

BENNINGTON COUNTY INTEGRATED DOMESTIC VIOLENCE DOCKET PROJECT: PROCESS EVALUATION FINAL REPORT

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February 2013

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Introduction¹

The Bennington County Integrated Domestic Violence Docket (IDVD) Project was initiated in September, 2007, as a special docket within the Bennington County Criminal/Family Division Courts. The goal of the IDVD Project was to provide an immediate response to domestic violence events by coordinating Family and Criminal Division cases. Dedicated to the idea of *One Family, One Judge*, the IDVD Project was designed to allow a single judge, one day each week, to have immediate access to all relevant information regardless of the traditional docket and to gather all appropriate players at the table regardless of any traditionally limited roles. The IDVD Project focused on: 1) protection and safety for victims and their children as well as other family members; 2) providing immediate access to community services and resources for victims, their children, and offenders to help overcome the impact of prior domestic abuse and prevent future abuse; and 3) providing an immediate and effective response to non-compliance with court orders by offenders.

Victim Safety: Of paramount importance to the IDVD Project was the court's ability to provide the victim with immediate access to a free attorney who specialized in matters of domestic violence on behalf of victims. In addition, a separate victim advocate and additional victim advocacy services were available to assist victims of domestic violence with safety planning and support services before, during, and after court proceedings.

Services: The IDVD Project was designed to quickly identify serious unmet needs for families in the court system and provide referrals to a comprehensive array of health and social services designed to meet the immediate and long-term needs of the family, including the victim, the offender, and their children.

Offender Accountability: The IDVD Project sought to ensure offender accountability by relying on a comprehensive coordinated community response based on active participation of the court, criminal justice agencies, the community, and professional service providers to hold offenders accountable for their behavior. Within the context of the IDVD Project responses to non-compliance with

¹ This Introduction was originally published in the Outcome Evaluation of the Bennington County Integrated Domestic Violence Docket available here: <http://vcjr.org/reports/reportscrimjust/reports/idvdreport.html> and was originally written by Judge David Suntag, the founding Judge of the Project.

court orders were swift, consistent, and proportionate to the violation and needs of the offender and victim. To ensure that offenders understood orders that were issued as well as their rights and responsibilities, public defenders provided assistance during the abuse prevention order process as well as the criminal process.

By integrating all domestic violence related matters (e.g., criminal charges, protection orders, custody/visitation matters) involving the same people, the IDVD Project was able to coordinate all court efforts toward the same goals of preventing further abuse and violence and remediating the effects of prior abuse on family members. Coordinated orders, expedited case scheduling and comprehensive case resolution for all parties was the primary and immediate focus of the IDVD Project.

The IDVD Day

Central to the idea of *One Family, One Judge*, the courtroom aspect of the Project was carried out in one day. In the morning, Relief From Abuse (RFA) orders were heard. In the afternoon, the criminal docket was heard, including violations of probation where the defendant was an IDVD participant.

The RFA mornings were fundamentally different from the usual way of doing business. First, the Coordinator would pull all files relating to the family: prior/current criminal cases and prior/current family court cases. Second, the arrival times of the parties were staggered; plaintiffs arrived at one time, defendants at another. The parties were segregated, and only together for their own hearing. While waiting for the hearing, the Coordinator would explain the Project, and Protection Against Violent Encounters (PAVE --the local domestic violence advocacy organization) would make a presentation on its services. Finally, at the actual hearing, a third fundamental change was implemented; all parties received the assistance of counsel. Notably, it appears that it was at the RFA hearing that the problem solving nature of the docket took shape.

The Criminal Docket in the afternoon was also fundamentally changed. The State's Attorney provided discovery to defense counsel that day and generally offered a

deferred sentence with strict probation conditions as a plea bargain.² The Court then gave the defendant two weeks to decide whether or not he wanted the deferred sentence with special conditions and services, or go through a more traditional criminal process.

The Court also heard Violations of Probation on the IDVD Day. The defendants in these cases were the defendants that were subject to the enhanced probation requirements for domestic violence offenders. Those that appeared had been arrested for the violation and spent a night or two in jail the prior week. The immediate sanction of the jail, coupled with the speedy violation of probation hearing, was tantamount to the objective of “Holding Offenders Accountable.”

Research Questions

For varying reasons, the IDVD Project disintegrated from its original inception. The purpose of this process evaluation was to determine “what worked” while it was up and running from 2007 through early 2010, and if there were process issues that contributed to the subsequent disintegration of the docket.

Methodology

Semi-structured interviews were conducted in person with team members. Grounded Theory was the methodological choice for this evaluation. Grounded Theory does not start with a hypothesis, but rather with the data. The data are then coded for themes that allow a researcher to see commonalities across interviews and develop a holistic picture of the process. In the development of themes, this study also sought to answer what traditional process evaluations answer: Did the process work the way it was planned/expected to work?

The research presented below catalogs the prominent themes as they appeared after the coding of the interviews. The themes identified fall into two broad categories: themes that were related to the outcomes and themes that arose

² There were 123 sentences imposed by the IDVD Project during the study period, of which 85 (69%) were deferred sentences. The next most frequent sentence was straight probation with 19 (15%) defendants receiving that sentence. Some participants did receive jail time.

organically during the interview process. The first part of this report addresses the implementation and outcomes of the stated goals of the Project. The second part of this report addresses the organic themes that illustrate issues that were important to team members outside of the objectives of the IDVD Project but are related to the ability to replicate the Project elsewhere.

Several factors hampered this research. First was the length of time that elapsed (two years) from the end of the IDVD Project period under review (2007– 2010) until the review conducted as part of this evaluation. Second, there were few documents (policies, procedures, meeting minutes, agendas, etc.) of the actual development process or of the procedures and meetings after implementation. For those defendants that chose not to participate, no records were kept on why they opted out of the IDVD Project. Providers did not keep records of IDVD clients, or additional time spent on the docket. Finally, the Coordinator during the time frame was unavailable for interview.

The Project did provide some documentation that was helpful to the review. The Coordinator's tracking spreadsheet was helpful in determining what needs were assessed. However, the spreadsheet was kept more for tracking than for research.³ Several draft documents were also provided including an early draft of a handbook and an early evaluation.

The following team members were interviewed:

The Founding Judge

The Current Judge⁴

Members of the PAVE (2 members interviewed)

Members of Probation (2 members interviewed)

Superior Court Clerk

Members of Have Justice Will Travel (3 members interviewed)

Public Defender for Bennington County

State's Attorney for Bennington County

³ Problem Solving Courts/Projects should consider database design when starting/modifying projects. Databases and data collection that allow for case management and evaluation balance the needs of the project with the need for accurate evaluation.

⁴ The "Current Judge" is the Judge who was responsible for the criminal docket in Bennington at the time of the review. The IDVD Project was not operational at the time of the review. However, the Current Judge rotated into the Docket and did try to participate in it. Team members appear to agree that the IDVD Project ended when the State's Attorney withdrew her support. A third Judge who presided over the Docket (between the Founding Judge and the Current Judge) provided some observations on the docket via email. Those observations are incorporated herein.

Meeting the Objectives

This section examines the IDVD Project's stated objectives and how well the process may have helped meet the objectives of increased victim safety, increased services for families, and increased offender accountability. The analysis below focuses on the main changes the IDVD Project made compared to business as usual and if it helped meet the objective.

I. Objective: Increase Victim Safety

A. Implementation

The IDVD Project took several steps to increase safety for victims. The largest institutional change revolved around Relief From Abuse (RFA) Order Days. Prior to the IDVD Project, both plaintiffs and defendants had the same arrival time and arrived in the same courtroom for the hearing. The IDVD Project implemented a staggered arrival time: victims were ordered to appear at one time, defendants another. Extra sheriff's deputies were assigned to patrol the parking lot. The parties were separated into different courtrooms, and an extra deputy was seated between the two courtrooms. For the actual hearing, the defendant was brought into the plaintiff's courtroom.

B. Outcome

Without speaking with victims, it was difficult to measure if the IDVD Project was meeting the goal of increased safety. Even if victims had been interviewed, most may not have been aware that there were changes. That is, a new user of the court and RFA process would not know how things were done before and would not, therefore, feel an "increase" in safety.

However, one team member represented victims in two counties. He asserted that victims did feel safer, and reached that conclusion based on his experience with questions victims asked in other counties. In Rutland County, plaintiffs and defendants arrive at the same time, are in the same courtroom on RFA day, although on different sides of the aisle. There are no additional deputies. His clients in Rutland ask if it is "safe to go to the bathroom", and similarly haunting questions about movement around the Court and if it is safe. However, his clients in Bennington County do not ask such fear-based logistical questions.

II. Objective: Increased Services to Victims and Families

A. Implementation

Bennington County is fortunate that many services are located very near the population hub of Bennington itself. Prior to the IDVD Project, accessing services was dependent on the family asking for help from PAVE and/or from attorneys. Unrepresented defendants in RFA hearings, with no attached criminal case, were essentially left on their own. There were two institutional changes that supported this objective: the hiring of the Coordinator; and increased legal representation at the RFA hearings.

B. Outcome: Hiring of Coordinator

The Coordinator was hired to be a part-time employee. Although housed in the Clerk's office, her role was to support the Project. By all accounts, the Coordinator worked more than the part-time hours budgeted for the position. The position was eventually expanded to full-time. She supported the objective of "increased services" in two distinct roles. The first was to provide the judge with all files (family and criminal) related to the family for the RFA hearings. The second was to coordinate the outside services for the family. Both roles are discussed below.

1. Consolidation of Information for RFA Hearings

When the Docket started, the IDVD Day was on Mondays. It was reported that on Sunday evening, the Coordinator would be at the courthouse manually pulling the files from Family and Criminal divisions that pertained to the family. The combined files along with case notes were given to the judge in the morning. Attorneys also had access to the files. This allowed everyone to have a more holistic picture of the family. Both judges interviewed agreed that this process provided a wealth of information that they did not normally have access to and gave them a better sense of the family and a greater confidence in their rulings. The Coordinator wrote this annotation describing an RFA hearing:

mutual APO's (Abuse Protection Order) were in place, as a means to resolve this complicated case a letter/ order of understanding was written up by (Plaintiff Attorney) in place of the Apo ...with an agreement of no

contact...and resolution of their children's visitation
(children are in the custody of others)

The Coordinator's spreadsheet listed 155 IDVD Project cases, of which 76 (49%) had related⁵ family court cases. Family court cases included active Relief From Abuse cases, Abuse Prevention Orders, divorce, and parentage. The spreadsheet listed 121 District Court cases that were IDVD Project eligible, but did not accept the invitation to become part of the Project, of which 59 (49%) had a related family court case.

2. Coordination of Services

The planning phase identified services that existed in the County that were essential to meeting the anticipated needs of the families. The services were already in place in Bennington County, but not part of a coordinated response from the Court. Counseling, supervised visitation, parenting classes, and substance abuse counseling were identified as strong needs. Safety planning, including safe housing, was also seen as a need for victims.

The needs of the defendant and family appear to have been ascertained in two ways. The first way needs were assessed was informally at the RFA hearing.⁶ Members reported that the RFA hearing often brought to light the collateral issues the family was facing. Team members, through reading the consolidated files and/or through personal knowledge of the family were encouraged to address the family's needs in the final orders.

The second way needs were assessed was through United Counseling Services (UCS). UCS is a non-profit organization that provides a variety of mental health services in Bennington. UCS set aside one day a week to screen IDVD Project participants for needs. This screening allowed people to be seen within a week, as opposed to the several weeks a non-participant would have to wait to be seen.

Once the needs were identified, the Coordinator helped the family obtain the services needed. The spreadsheet gives some indication of what needs were

⁵ It is not clear from the spreadsheet if these cases were just opened, pending, or closed.

⁶ One team member recalled law enforcement conducting a lethality assessment that was then used to help identify services.

identified.^{7 8} The spreadsheet has a column titled “Presenting Service Needs,” a free form text entry column. Using the data in this column, it appears that 36 (23%) cases in the Project had more than one discrete need identified. For example, there could be mental health needs in addition to substance abuse needs. Mental health needs, including individual counseling, were identified in 55 (35%) of the cases. Substance abuse counseling/services were needed in 48 (31%) cases, and parenting classes in 20 (13%) cases.

Identifying the needs was almost secondary to the true nature of the court; coordination of services was the primary goal. The spreadsheet annotations are instructive on how those services were coordinated. Below is a sampling that indicates the type of coordination that the Coordinator provided:⁹

helped X with counseling and insurance

harassing contact with parents - noncompliance held without bail....

A competency / sanity evaluating was scheduled for October 8th with Dr. Linder- the report indicated that the is need in ongoing inpatient care.

I was able to confirm the availability of a bed at the Bratt retreat; it became necessary to contact various folks in ec services to upgrade his VHAP insurance to VHAP plus a- as it was not yet the first of the "next" month ...this is necessary for inpatient care (and this is done on an automated basis usually)...

helped X with utilities, back rent costs, child care when she is in school.

As mentioned in footnote 7, the annotations in the spreadsheet appear to apply to the parties in the case, without clear specificity as to who was in

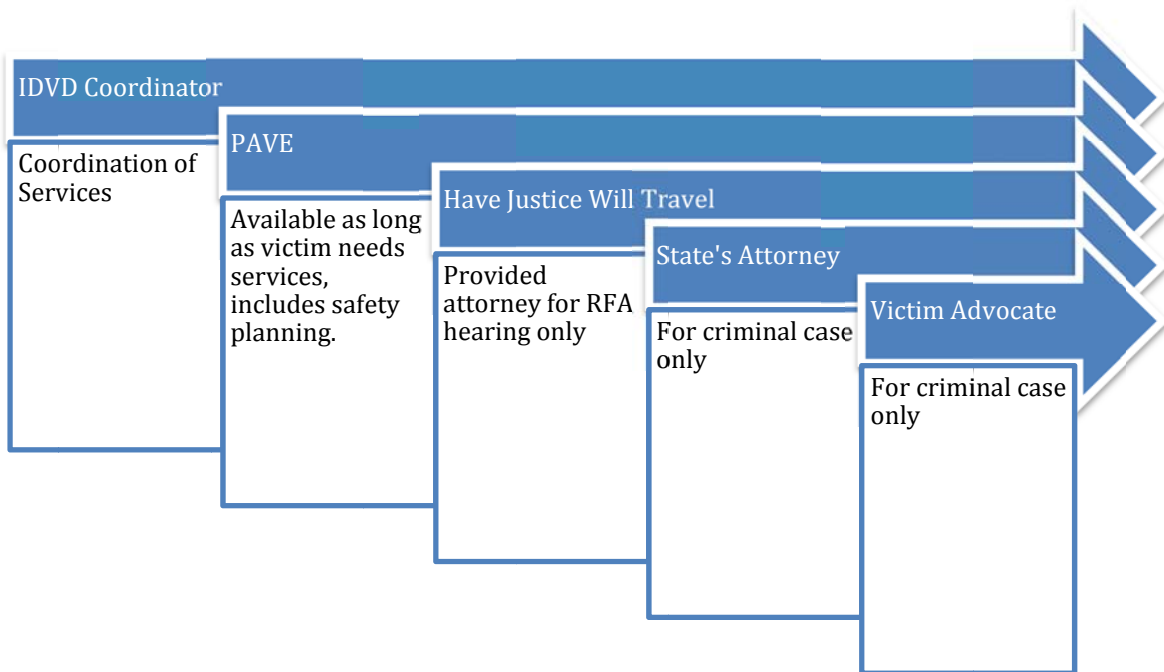
⁷ It is not clear from the spreadsheet when the needs were identified or by whom. Further, the needs are attached to a criminal case, but the needs recorded did not specify who (defendant, victim, other family members) was in need of the services.

⁸ The Coordinator’s spreadsheet did not record services needed for RFA families who had no concurrent criminal case. Budgetary constraints limited data collection during the project. Future projects should receive adequate resources for data collection.

⁹ Spelling errors have been corrected.

need of the services. However, the team members interviewed all remembered the Coordinator's dedication to arranging for services for all parties.

The researcher identified the institutional services the Project provided victims. In addition to the Coordinator, the victim met PAVE on the IDVD Day, the State's Attorney, and perhaps the Victim Advocate. The victim may receive up to five different advocacy/facilitative contacts in one very emotional and long day. The chart below illustrates the service providers and their roles. There may be clear professional boundaries to the team members, but the researcher wonders if a new user of the services would understand whom to call and for what services. It was not clear that there was a coordinated "team approach" to the care of the victim/family once the family left the courthouse.



During the structured interviews, team members consistently pointed to two services that were essential, in their opinions, to meeting the needs of families: United Counseling Services and Family Time Supervised Visitation (Family Time). As discussed above, UCS set aside one day a week to screen people for mental health needs. The swiftness with which this was done (that week appointment as opposed to weeks) was seen as essential by team members to the success of the Project.

Family Time provides supervised visitation for families. Team members believed that its physical proximity to the court was responsible for the increase in usage by IDVD participants. One member reported that use of the Family Time had increased under the IDVD Project, so that additional fundraising by the center was necessary to meet demand. Team members indicated that organizing use of Family Time at the RFA hearing day was a great benefit, and helped offenders especially maintain contact with their children.

C. Outcome: Increased Representation and Procedural Fairness

The Founding Judge considered procedural fairness to be a necessary service the IDVD Project should provide. Procedural fairness would allow all parties to have their legal needs met at Court. If those needs were met, he argued, then the other services would be more likely to be used. To this end, he wanted all parties represented at the RFA hearing.

Providing representation at the RFA hearings was the one outcome of the Project that was solely outside the official influence of the Court. The State does not provide legal services to RFA plaintiffs or defendants. In Bennington County, Have Justice Will Travel represents the plaintiffs. The IDVD Project benefited from a change in grant status for Have Justice Will Travel which allowed it to meet the representation needs of the IDVD Project plaintiffs. The Public Defender for the County agreed to sit in an advisory role in RFA hearings to assist the defendants. The Defender General, with the caveat that the additional duties not interfere with his regular contracted work, supported the arrangement.

The attorney for the plaintiffs appreciated having the defense attorney present to help smooth and focus the process on resolution of the case. The defender was able to assist the defendant in asking questions regarding getting possessions from the house and child visitation. This gave the defendant the procedural fairness that was lacking before. Both Judges interviewed said having both counsel present was a welcome addition and allowed the hearings to move in a more productive manner.

III. Objective: Increased Offender Accountability

A. Implementation

In order to increase accountability, the offender had to understand for what he was to be held accountable. To that end, the Project provided defense counsel at RFA hearings to help the defendant understand the order. The Project also created new probation requirements that explicitly stated the behaviors that would lead to a violation and instituted a rapid arrest and hearing process to address violations. The role of the defense counsel is discussed above. This following section details the outcomes of the new probation requirements and procedures.

B. Outcome

The team members drafted new probation requirements and procedures for the IDVD Project. The requirements are far more restrictive and more tailored to domestic violence offenders than the general probation requirements. For example, the new conditions include such responsibilities as informing the probation officer of the name and contact information of a potential romantic partner, disclosing the domestic violence offense to new or current domestic partners, and prohibiting the offender from entering a bar or liquor store.

The requirements could be described as “Draconian” without the carrot of a deferred sentence. However, in a prior study, we found that 85 participants were sentenced to a deferred sentence, and 60% (51) of those were able to successfully earn the deferred sentence, that is, have their records expunged.¹⁰ Some team members perceived this to be a high failure rate of the deferred sentences. One team member said, “We were really concerned about the deferred sentences, but then we saw that so few were able to keep them, it became a non-issue.” Another team member, who was in favor of deferred sentences said “[T]hey’ve earned over a period of years, if they can do this then he’s earned it.”

The new conditions also included a section defining behavior that would lead to a violation. This explanatory section was new to the traditional conditions of probation. The conditions define and illustrate examples of harassing and threatening behavior. Some examples of *threatening* behaviors included:

¹⁰ <http://www.vcjr.org/reports/reportscrimjust/reports/idvdreport.html>

Making threats by word or actions or both to cause physical harm to anyone, including the victim of your offense, his/her children or any other family members or friends including a current or prior boyfriend/girlfriend/spouse/date or person you believe is or was sexually or romantically involved with your victim;

Threatening to take the children or prevent your victim from seeing or having contact with the children in any way. If you decide to seek custody or visitation with the children through the normal court process, you are permitted to do that but you may not tell the victim that you are planning on doing so or threaten to do so: i.e.: "I will get custody of the kids" type statements;

Making threats to harm victims' or children's pets or owned animals;

Making threats to damage property of the victim and/or her/his children;

The following are some examples the new conditions used to describe *harassing* behavior:

Interfering in any manner with your victim's employment and ability to move about freely without being subject to your harassing or threatening behavior: this includes appearing at victim's workplace when not invited or permitted, interfering with your victim's ability to perform her/his job functions by your presence at his/her workplace or by telephoning her/him at his/her workplace;

Driving or walking by victim's residence or workplace or the children's school when you are either not permitted to do so by any court order or your probation officer or for no other legitimate reason;

Driving by the victim and or his/her residence or workplace and making loud noises such as horn blowing, squealing tires, or yelling or shouting anything to or at her or her children or anyone he/she is then in the company of;

Making rude, insulting or offensive gestures at the victim;

Team members were generally very supportive of the definitional sections of the new requirements. The detailed explanations made it clear to the defendant what

behaviors were prohibited. It also gave defense counsel and probationers the ability to engage in a conversation beyond what they normally would have. That is, prior to the new conditions the conversation might be “don’t harass, if you see her in a store, you have to leave,” whereas the new written conditions cover a breadth of activity that can lead to a conversation about appropriate and inappropriate behavior.

In addition to the new conditions, the Project encouraged immediate arrest for violations, no matter how minor. Probation would make the arrest and the defendant would spend a night or two in jail for the violation. The violation hearing would be heard on the next IDVD Day. The Probation team members felt validated by the immediate Violation of Probation Hearings (VOPs). In the beginning of the Project, VOPs were heard once a week on a scheduled basis. This, the managers reported, gave their staff the institutional support they needed for the change of policy that the Project required. Violation hearings prior to the IDVD Project, and now, are scheduled roughly once a month. During the study period, roughly equal percentages of defendants in the IDVD Project and the Bennington District Court were charged with violations of probation.

Thematic Issues Affecting Replication

The thematic issues discussed below were those themes that were pervasive during the structured interviews. Using the Grounded Theory methodology described above, these themes were the most important to the team members when discussing the success of the Project.

I. High Trust Environment

Bennington County has a legal culture that is more cooperative than adversarial in nature. One team member mentioned that after a jury goes out to deliberation, the defense attorney and prosecutor shake hands as a “thanks for doing your job.” Further this tradition is of high value in the community -- new attorneys are informed immediately upon entry to the local bar.

The legal culture of the County helped lay the foundation of trust that was needed to begin the Project. Almost all team members described the planning and implementation as a high trust environment. One member came to the County to

work on the Project because of the reputation of the Presiding Judge. Other members were new to their roles. Yet, everyone felt heard during the process.

The Presiding Judge at the inception was very accessible. Team members were encouraged to email the Judge if s/he had questions about an order. The Presiding Judge also appeared to encourage a more tribunal courtroom in the RFA hearings. Team members spoke of “weather reports” issued by the Judge as a way of warning parties of which way he was leaning. The team members uniformly appreciated these “weather reports.” The Judge also was a very active questioner from the bench. One member said, “He had a way of getting to the heart of the story.” This demeanor from the Judge made the team members feel heard and understood in the courtroom.

Although everyone felt heard in the beginning, there appears to have been no formal process for change or voicing concerns as the Project progressed. Team meetings were the primary means of communication. One team member described an issue regarding the timing of proceedings and the need for mothers with childcare issues to be heard earlier, or in a more constricted time frame. The issue was resolved informally through meetings and emails. The only documentation of the change was the team member’s memory and a change in practice.¹¹ Although this issue was resolved, the lack of formal process for addressing change meant that it was up to the individual team member to choose a path to voice concerns.

The managers that were team members shared in the environment of open communication. However, the philosophy of the Project, in some cases, did not trickle down to the rank and file who were implementing parts of the Project. One team member (a manager) reported removing a subordinate who “just didn’t get it.” Managerial discretion was exercised and the subordinate was reassigned. Other managers reported similar dissatisfaction among subordinates. One team member described it as “playing telephone” referring to the children’s game where a message gets passed from person to person and often bears little resemblance to the actual message.

¹¹ See Thematic Issue IV Transition, *infra*, for a discussion on the effects of lack of formal process for change on transition.

II. Role Expansion/Understanding

The Court Room Work Group impacts the delivery of justice services.¹² The theory suggests that the members of the regular work group are conditioned by the group to work together, and people generally outside the workgroup have difficulty obtaining similar outcomes.¹³ How members of the workgroup perceive each other and carry out their roles impacts court outcomes.

As with most “problem solving” courts, the pre-IDVD courtroom workgroup expanded as the IDVD Project developed. The IDVD Project expanded the workgroup by insisting on representation for all parties at RFA hearings and hiring a Coordinator to coordinate services and information.

Each team member was asked to describe the role of the various team members. Although this Project required some role expansion and creation of new roles, there were few areas of disagreement on what those roles were.

Defender

The Public Defender for the IDVD Project had to expand his role to be in a non-representational mode for the RFA days. All team members recognized this role expansion. It is important to note that this expansion was at the largesse of the Defender General and the Defender himself. The contract to provide services between the Defender’s Office and the Defender General was not enhanced.

State’s Attorney

Most team members did not view the State’s Attorney’s role as changing. As one member put it, she was to “provide the deal” (referring to the deferred sentences). However, the State’s Attorney expended professional capital to bring her subordinates and local law enforcement on board for the Project. This expended capital was new to her role as she viewed it.

¹² Eisenstein, J. & Jacob, H. (1977). *Felony Justice: An organizational analysis of criminal courts*. Boston : Little & Brown.

¹³ See, for example, Sudnow, David, Normal Crimes: Sociological Features of the Penal Code in a Public Defender Office, *Social Problems*, Vol. 12, No. 3 (Winter, 1965), pp. 255-276 illustrating how the workgroup behavior changes in a particular court depending on the type of attorney.

The Judge

Team members found the Project to be largely one of judicial discretion. Indeed, the Current Judge did not share some of the philosophy of the Founding Judge and therefore changed some of the procedures regarding probation violations. As there was no formal process for change, the changes made by the Current Judge were viewed as a sole exercise of judicial discretion without discussion with team members.

Have Justice Will Travel

Have Justice Will Travel is a federal grant and donation funded organization that provides representation to women in rural areas in family law matters. In Bennington County, its representation is now exclusively for plaintiffs in RFA hearings. During the planning phases its representation was broader in scope, encompassing custody, divorce, and other family law matters. The grant changed at the federal level to only represent victims at the RFA hearings. It was because of this grant from the Department of Justice that the organization was able to meet the needs of the RFA docket. Without that grant, the organization would have had to close the Bennington office.

PAVE (Project Against Violent Encounters)

PAVE has supported Bennington County for thirty years. It provides advocacy and safety planning for victims and families. It is also the primary domestic violence educational organization in Bennington, providing workshops and outreach on domestic violence issues and services.

PAVE maintains that its role did not change significantly during the Project. Instead, the organization viewed it as an enhancement to its services. PAVE worked closely with the Coordinator to follow up on defendants and services requested by the victims. It enjoyed (as did all team members) a greater dialogue with the Founding Judge that allowed for an understanding of the Project as it progressed.

Court Clerk

Team members had a less defined role of the Clerk of Court than other team members. Team members described the role as “logistical” or “organizational.” This may be a reflection of how the role of the Clerk interacts with other courtroom actors. For example, attorneys have differing relationships with the office versus the Judge versus the advocates. What is clear is that if the role of the office was defined in relationship to the IDVD Project, other members did not internalize it. The Clerk, in addition to the duties of organization and logistical support, is also the public face of the courthouse. The interaction with the public, and the way the

Project influenced and may have hindered that conduct, went largely unmentioned by team members.

Coordinator

The Coordinator was originally a part-time position, although team members all thought she worked more than the budgeted hours before her position was expanded to full-time. This was a new position inside the Clerk's office; however, her only duties were to support the IDVD Project. Her role was to coordinate the information on RFA day, to provide services to the families, and to keep the data on the Project. Most team members spoke of the Coordinator in glowing terms. She was, according to one team member, "the glue" that held the Project together.

Some team members spoke of an appearance of non-neutrality, and that the Coordinator favored victims over defendants. The neutrality of the role, however, was essential to meet the Project's goal of procedural fairness. Neutrality was also required because the position was housed in the Clerk's office. No data were available to evaluate the appearance of non-neutrality.

III. Training

All team members were asked about what training was (and is) available for the team. The Coordinator and an attorney for Have Justice Will Travel attended training in New York State on Domestic Violence Courts. The Founding Judge is considered an expert in the field, and has attended and led seminars on Domestic Violence Courts.

Other team members were able to recall in general terms that "trainings had been held" but with very little detail on what they entailed and who they were for. There appears to have been training for police officers and investigators. This was attended by non-law enforcement personnel as well. However, one team member walked out of the training because the law enforcement officer leading the training suggested that investigating the victim's sobriety was not necessary in responding to the case. If there were further trainings, this team member did not attend them. The team member argued that promoting a particular theory of victimization in training was inappropriate and contrary to the cooperative atmosphere of the Project. This was the only specific recollection of in-county training that any team member recalled.

IV. Transition

Related to training is the transitioning of personnel. Judges rotate and other team members may move into other positions. There was no formalized transition plan for new team members. As mentioned above, team members who were managers were responsible for training and education about the Project. Likewise, judicial transition was handled amongst the judges. The Current Judge received little written explanation of the Project and the decisions made. He recalled having conversations about the Project with prior judges, but did not receive any detailed description of why particular decisions were made or how.

This lack of information and no clear process for change contributed to problems in the workings of the IDVD Project. The second Presiding Judge recalled that attorneys were negotiating the conditions of probation, which was contrary to the philosophy of the Project. Initially, he was unaware that such negotiations were detrimental to the Project. The Current Judge has a different judicial philosophy than the Founding Judge in regard to the probation violations. Placing defendants in jail for low-level violations is contrary to his philosophy. However, the immediate and severe sanctions for violations were viewed by team members as essential to their participation in the Project. As discussed above, the State's Attorney expended professional capital to secure participation of her subordinates and partners in the Project. Specifically, the use of immediate and harsh sanctions for violations helped her do that. When that changed, she withdrew her support for the Project. Without a formal transition plan (including documentation), new team members and their subordinates were unintentionally acting in a way that was detrimental to the Project.

V. "Up North" and Centralized Administration

Bennington County is located in the southwest corner of Vermont. It is about a 2.5-hour drive away from Central Vermont, where many state offices are located. During the interviews many team members used the phrase "Up North" to describe interactions with the centralized administration of the various criminal justice agencies involved in the Project. It was also used to describe interactions with peers

from across the state. For example, the State's Attorney used the phrase to describe her interactions with other State's Attorneys.

Although the Project was seen as organic within Bennington, most team members had someone "Up North" to answer to. The Defender General allowed the Public Defender to participate in RFA Days. The State's Attorney received some criticism from other State's Attorneys for her participation. The emergency arrest warrant for probation violations conflicted with the Department of Corrections' statewide policy to reduce detentions. The Founding Judge felt resistance from his peers. If the Project is replicated elsewhere, this tension should be examined and addressed.

Recommendations for Replication

True replication of the Bennington County Integrated Domestic Violence Docket would require:

- a dedicated IDVD Day;
- a cooperative local legal culture;
- representation of both parties at the RFA hearing;
- scheduling both the RFA hearing AND the criminal case on the same day in front of the same judge and establishing a culture of early resolution;
- a Coordinator to assist families quickly access services and provide support for the team by reviewing and summarizing court files prior to proceedings;

- availability of a comprehensive array of health and social services designed to meet the immediate and long-term needs of the family, including the victim, the offender, and their children;¹⁴
- restrictive probation conditions which are described in detail;
- strict and immediate enforcement of violations of probation (VOP) through immediate VOP hearings and jail sanctions where appropriate;
- deferred sentences;
- a written protocol for the Project; and
- an agreement among team members to adhere to the philosophy and protocols of the Project.

The following section proposes recommendations that a majority of members of the IDVD Team who were interviewed for this study felt were essential to the success of the IDVD Project and could be used to increase the effectiveness of current court responses to domestic violence.

I. RFA Day Procedures

A. Arrival on RFA Day

Access to justice should not be cloaked in fear of physical harm. Victims in other counties ask fear-based questions about movement in a public building on RFA day. That fear was removed in Bennington with the staggered arrival times, separate courtrooms, and extra sheriff's deputies on duty. Policy makers should consider the feasibility of adopting this practice statewide.

¹⁴ The services that were seen as essential were Family Time and United Counseling Services. The close proximity of Family Time to the court, and therefore the population center was viewed as necessary to meet the needs of the family for visitation with the children. The immediate availability and breadth of services offered by UCS was also viewed as essential to addressing the mental health needs of the family.

B. Increased Access to Court Records

Judicial decision-making and procedural fairness benefit from complete information. The judges, attorneys, and advocates appreciated the wealth of information that the Coordinator provided on a family's other court cases. Policy makers should consider institutionalizing attorney and judicial access to information in RFA cases and related criminal cases.

C. Increased Representation

Vermont does not currently provide representation for plaintiffs or defendants for RFA hearings. Have Justice Will Travel represented plaintiffs in Bennington County, using a federal grant to fund the services. The Defender did not provide formal representation, but essentially volunteered time on RFA day to informally advise the defendants. The Judges and plaintiffs' counsel felt the addition of defense attorneys in the courtroom on RFA day resulted in a smoother, more satisfying experience for all parties. It was the cornerstone of the procedural justice objective of the Project. New York State provides counsel for all parties in Family Court¹⁵, the feasibility of such global representation should be explored.

II. Probation Conditions

As mentioned above, the new probation conditions included new restrictions and explicit definitions of prohibited behavior. The new restrictions should not be implemented without deferred sentences and swift responses to violations. To do so would undermine the procedural fairness goal of the Project. Team members uniformly felt that the sections clearly defining what behavior constituted threatening, harassing etc. led to a greater compliance and a standard language that defendants could understand. Policy makers should consider adding those sections of the conditions to all domestic violence probation contracts and RFA orders.

III. Make the IDVD a Vermont Initiative

Team members were convinced that without the unique culture of Bennington County, the Project would be difficult to replicate elsewhere. However, as they described the tension between "Up North" and their participation, it appears that a centralized initiative may actually help overcome some local barriers to

¹⁵ See, for example:

<http://www.nycourts.gov/courts/6jd/tompkins/family/CourtAndYou.pdf>.

implementation.¹⁶ Perceived tensions with Department of Corrections policy, Defender General statutory restrictions on representation, and general professional acceptance of the workings and goals of the Project are best addressed at the statewide level.

¹⁶ VCJR is a partner with the Joint Fiscal Office and The Pew Center for Policy Research on the Results First Model, a predictive modeling tool that will allow policy makers to see what effect certain programs will have on crime rates. VCJR has asked Pew to conduct a meta-analysis of Domestic Violence Courts and Dockets to include in the model. Results are expected to be available in early 2013.