

INTEGRATED DOMESTIC VIOLENCE COURT

# Protocols for Sustainability 2021



STATE OF NEW YORK SUPREME COURT  
KINGS COUNTY



# Protocols for Sustainability 2021

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## Introduction

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

## The IDV Court is Designed to Promote:

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

## I. Jurisdiction

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

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

## II. IDV Staff

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

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

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

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

## III. National Mentor Court

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

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

## IV. Case Eligibility and Screening

### i) General Procedures

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

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

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

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

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

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

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

### a) Criminal Court Cases

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

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

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



## **b) Family Court Cases**

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

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

## **c) Matrimonial Cases**

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

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

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

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### d) Child Support Cases

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

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

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

## V. Court Calendaring

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

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

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

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

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

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

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

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

## VII. Services and Resources

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

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

## PROTOCOLS FOR SUSTAINABILITY 2021

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

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

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

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

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

## VIII. Legal Representation

### I) Criminal Cases

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

## **II) Family and Matrimonial Cases**

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

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

## **III) Matrimonial Cases**

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

## **IV) Attorneys for Children**

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

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

## IX. Judicial Monitoring of Defendants

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

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

## X. Judicial and Non-Judicial Training

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



## XI. Courthouse Facilities and Safety

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

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

## XII. Confidentiality and Case Integrity

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

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

## XIII. Stakeholders

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



## Conclusion

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

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

## Glossary of Common Terms and Acronyms in the IDV Court

### STAKEHOLDERS

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

PROTOCOLS FOR SUSTAINABILITY 2021

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

INTEGRATED DOMESTIC VIOLENCE COURT

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

PROTOCOLS FOR SUSTAINABILITY 2021

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

INTEGRATED DOMESTIC VIOLENCE COURT

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

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