

The author(s) shown below used Federal funds provided by the U.S. Department of Justice and prepared the following final report:

**Document Title: Queens County, New York, Arrest Policies
Project: A Process Evaluation**

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Document No.: 201886

Date Received: September 2003

Award Number: 98-WE-VX-0012

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Queens County, New York, Arrest Policies Project

A Process Evaluation

February 8, 2000

***Prepared for
Queens County District Attorney's Office
National Institute of Justice
Violence Against Women Office***

***Prepared by
Neal Miller***

This project was supported by Grant No. 98-WE-VX-0012 awarded to the Institute for Law and Justice by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S Department of Justice.

Overview

The Office of the Queens Borough President, New York sponsors a Violence Against Women Grants Office (VAWGO) award under VAWGO's Arrest Policies program for the Office of the Queens County District Attorney and Victim Services to jointly staff a newly formed misdemeanor vertical prosecution unit. The new unit includes both (1) additional prosecutors and support staff to process and prosecute misdemeanor domestic violence cases and (2) victim advocates/counselors to provide services to domestic violence victims at the earliest prosecution stage and to continue with these services as needed. Two grants have been awarded to the project.

The project has succeeded in increasing domestic violence convictions in the County by about 100 percent (from 30 to now 60 percent of all police arrests) and increased victim services from essentially zero to 300-400 long term counseling each year. In addition, Victim Services will provide, based on current caseloads, short term counseling at the initial case stages to as many as 1000 victims.

The Arrest Policies Grant

Funding

The first grant awarded in September 1996 was in the amount of \$754,000 for an 18-month period. The renewal grant, effective November 1998 for 18 months was for \$1,026,000. The latter grant's moneys are for

- Project coordinator in Borough President's office
- Three assistant district attorneys
- One Deputy Bureau Chief to head unit
- Part- time funding for Special Victims Bureau Chief and Director of Training
- Three domestic violence coordinators
- One social worker supervisor for Victim Services
- Three counselors
- One intake unit advocate
- One additional advocate at intake

- One civil legal services attorney
- Special safety-related services (e.g., beeper rental, emergency assistance, relocation expenses)

A reallocation budget request that would provide for two more Victim Services counselors in the Intake Unit has been submitted. The request is awaiting final approval from VAWGO.

Project Goals

Project goals are primarily to improve prosecution and enhance services to victims, as well as provide support for these primary goals. Specific goals include:

- Establish a dedicated misdemeanor domestic violence prosecution unit, increase the number of prosecutors handling these cases, and vertically prosecute all cases assigned to the unit
- Establish an emergency response team that will be available on a on-call basis to provide immediate prosecution direction and victim services assistance in felony domestic violence cases at the crime scene, precinct, or other location
- Improve case intake through early outreach to victims at intake, facilitating charging decisions and assessing the need for orders of protection, as well as reducing victim noncooperation with prosecution
- Increase services provided to victims by Victim Services Agency staff and improve communication between the prosecution and victim counselors, with a focus on reducing victim noncooperation
- Outreach to community programs and organizations serving the many ethnic groups in the County to ensure that victim counselors have the resources to meet all victim needs
- Provide domestic violence training to all participants in the prosecution of domestic violence cases and to personnel of agencies providing services to victims of domestic violence
- Establish a collaborative advisory group on domestic violence

Summary Findings

Success in Meeting Goals

Virtually all of the project goals have been met. Project achievements include:

- Establishment of a dedicated misdemeanor domestic violence prosecution unit with 8 prosecutors (compared to 3 prosecutors previously assigned to both these cases and to youth cases) and elevation in Unit status by transfer to Special Victims Bureau and assignment of a Deputy Bureau Chief to head the Unit
- Participation of domestic violence prosecutors on Special Victim's Bureau Emergency Response Team, thus providing 24-hour coverage for the most serious domestic violence cases requiring prosecutor advice or presence at the crime scene or to meet with the victim and/or witnesses
- Establishment of special Victim Services counseling and advocacy unit for meeting needs of victims and victim support, that is housed in the offices of the domestic violence prosecution unit
- Assignment of another victim advocate, for early victim contact, to the District Attorney's case intake unit that is responsible for reviewing criminal cases brought by the police and charging defendants for their arraignment in criminal court
- Expanded outreach to community groups and batterer intervention programs, resulting in the availability of new intervention programs
- Provision of both entry-level and in-service domestic violence training to prosecutors, roll call and other training for police, in-service training to hospital personnel in the County, and community education to other groups
- Establishment of a community advisory group and the creation of informal communication networks among the prosecution, Victim Services, and other community service providers.

Other Achievements

As a result of the special focus on misdemeanor domestic violence prosecution, the project's activities have had several unforeseen positive effects. These include

- Precedential rulings from state courts on domestic violence prosecution issues
- Improved police reporting through development of new forms that direct police officer attention to the evidentiary needs of the prosecutor; and increased police oversight of officer use of the new form that uses prosecutor case log to review police officer compliance with the revised form
- Establishment in the Criminal Court of a special misdemeanor domestic violence part and a compliance court part to review batterer attendance at intervention programs per court order; both domestic violence parts have specialized judges assigned to the courts to ensure familiarity with the issues raised in these cases.

- Expansion of the domestic violence prosecution unit under a STOP grant to add a felony domestic violence prosecution team
- Development of a training manual for law enforcement on domestic violence

Statistical Measures of Performance

Prosecution/Court Performance

In the most recent full calendar year, 1998, the domestic violence prosecution unit received 4,762 misdemeanor cases for prosecution, compared to about 3,500 cases in 1996. The cases handled by the prosecutor unit included Assault 3 (64 percent), contempt of court proceedings for violation of a court order (14 percent), menacing (6 percent, aggravated harassment (5 percent) and other cases such as child endangerment (10 percent).

One measure of project success is the increased number of convictions it obtains in its cases. Conviction data available only for assault cases these cases which constitute the bulk of the domestic violence cases. Using the number of cases charged by the police as the comparison base, the conviction rate for assault cases rose from less than 30 percent for the year prior to the grant to just under 60 percent at present.¹ If one limits the comparison to the three months just prior to the grant's award, the conviction rate had been decreasing to a low of 20.6. As a control against possible other changes in the environment that might explain the increased level of convictions, an analysis was done of whether there had been comparable increases in convictions for non-domestic violence assault cases. This analysis showed a relatively constant 39 percent conviction rate for non-domestic violence misdemeanor assault cases.

Trials in domestic violence cases have also increased. In the years preceding the grant, misdemeanor domestic violence trials numbered 2 or 3 each year. In 1998, the domestic violence prosecution unit tried 53 misdemeanor cases. In 1999, as of September 30, the Unit had tried 47 cases. The Unit's willingness to try misdemeanor cases in court can be seen from another statistic: while domestic records violence cases make up less than 10 percent of all misdemeanor complaints, domestic violence trials make up over 40 percent of all misdemeanor cases tried by

¹ A significant proportion of the non-conviction cases is reported to be from dropped dual arrest cases where only one party is prosecuted.

the District Attorney's office (47 of 121 trials in 1999 to date). Most trials are bench trials; only 8 of the 47 trials in 1999 were before a jury.

Conditional Discharges requiring defendant participation in an intervention program constitute the bulk (94 percent) of the court sentences.

Victim Services Performance

Victim Services' work with victims has also shown an upward trend. One year ago, Victim Services' staff opened² an average of 25-30 cases per month. In the last five months, Victim Services averaged 40 case openings per month. For the period, October 1998 to August 1999, Victim Services opened 384 cases.

Victim Services other activities can be divided into outreach calls and direct services. Statistics for these activities are available only for the five months ending August 1999. During this period, outreach calls numbered 369, resulting in 131 contacts. It should be noted, however, the number of outreach calls varied significantly during this period from a high of 117 calls in April, when there was a new counselor hired who needed to build her caseload, to 22 calls in August 1999. At the same time, Victim Services provided direct service assistance to 92 victims and made 363 home visits.

Victim Services also is a member of the Emergency Response Team responding to felony calls for assistance. In the 11-month period ending August 1999, Victim Services staff responded to 16 calls to assist a victim at her home, a hospital ER, at the police precinct, or at another location.

The Victim Services civil legal services attorney handles about 60 cases per year. At any one time, the attorney may have between 25 and 35 cases. On average, cases take one year to complete, but some can last as long as two years.

² An opened case is one in which the counselor anticipates that there will be a continuing series of contacts between the victim and Victim Services, thus "opening a case" is needed for case management. Victim Services counselors may also provide significant direct services to a victim without opening a case where there is no expectation of any significant number of repeat contacts.

Process/Program Description

Criminal Process

The focus of the Arrest Policies grant is on the prosecution of misdemeanor domestic violence cases. Because of caseload pressures, domestic violence is defined for the purposes of the District Attorney's specialized unit as violence among intimates. This definition differs from that used by the Family Court by expanding the relevant population beyond those of blood ties to include same sex relationships and boyfriend-girlfriend couples, but also excludes statutorily protected relationship categories that include persons who are related but are not living together (e.g., aunts and nephews).

In New York City, police are required to arrest suspects in most domestic violence cases where they have probable cause to arrest. Where the suspect is not present, a warrant card is administratively issued in lieu of an arrest warrant; this notifies an officer checking the computerized warrant system that the suspect is to be arrested on probable cause (an arrest warrant is not sought because it automatically requires the suspect to be given an attorney before questioning). Regardless of whether an arrest is made, police are required to file a Domestic Incident Report (DIR). If an arrest is made, an arrest report is also prepared. Police in Queens use a one-page checklist/note-taking form that identifies key prosecutorial needs such as spontaneous statements by victim or defendant, photos, etc. This report form was prepared by the Deputy Bureau Chief who is in charge of the domestic violence prosecution unit and was instituted about six months ago.³ The police will also attempt to obtain the victim's signature on the DIR as a complaining victim (see below). The Unit case log that records information about each new case assigned to the Unit also records whether the arresting officer provided each informational item (or explained why not provided (e.g., camera broken). These logs are reviewed by NYPD officials for officer compliance with the evidence form and are used as a follow-up device to provide the missing materials; failure to comply with the form may also be recorded in the officer's personnel file. Conversely, the Deputy Bureau Chief will send out letters

³ One NYPD domestic violence coordinator for the borough command indicated that police now understand what the district attorney needs for a successful prosecution and that they had not previously been providing all that information.

of commendation to officers whose work was exceptionally good in handling a domestic violence case.

The arrest papers are then sent to the District Attorney's Intake Unit, comprised of relatively young prosecutors and supervisors. This unit also has a Victim Services counselor assigned to it. Based on the papers provided by the police, the Intake Unit will prepare the criminal complaint for arraignment. In New York City, arraignment must be held within 24 hours of arrest. In New York, complaints require a corroborating affidavit; the signature of the victim attesting to the alleged facts of the complaint is commonly used for this purpose. However, the domestic violence prosecution unit has successfully argued in Criminal Court that excited utterances recorded by the police can serve the same function with the police officer attesting to the accuracy of the report. Statements by the victim to Victim Services counselors may not be used to verify allegations in a complaint because of confidentiality issues. In cases where the victim's safety is at jeopardy, however, counselors may informally indicate to the ADA handling the case that the case is indeed serious despite the victim's refusal to cooperate.

At arraignment, the assistant district attorney (ADA) will ask the court to issue a full order of protection that requires the defendant to leave the residence. Although office policy is to press the court for a full order, in instances where the victim protests the ban, a limited order of protection prohibiting further violence may be issued instead. Orders of protection are issued in all cases arraigned by the criminal court, and these orders last until the next hearing. One reason why full orders of protection are not issued in all cases is that the judges in the arraignment court are not all familiar with domestic violence cases and are more likely respond to the victim's objections to a full order (even as a "cooling off" devise).

After arraignment, the court papers are forwarded to the misdemeanor domestic violence prosecution unit. The papers are reviewed by the unit's paralegal and distributed to the ADAs according to the predetermined calendar schedule. Cases are assigned to the ADA who is scheduled to be in court when the case is scheduled for its next appearance. From the point of case assignment on, the case is handled by the same ADA to whom it was assigned. Each ADA appears in court once every two weeks and as a backup prosecutor on the preceding or subsequent day.

Once the case is assigned to an ADA in the domestic violence prosecution unit, the case file is reviewed and the victim contacted by telephone. As needed, the victim will be asked to come in for a personal interview. Cases where the victim has refused to sign the DIR are given the highest priority; the office paralegal will call the victim to set up an appointment or, if the victim can not be reached, notify the NYPD domestic violence unit officers that the victim is needed for an interview. Where the victim is not immediately needed, she may not be contacted for several days. For victims who do not speak English, the Unit has access to a translation service provided by AT&T to facilitate conversations with victims in a borough housing over 160 different ethnic groups.

Special problems are presented by dual arrest situations. Where this occurs, the office will ask defense counsel to separately interview both parties. These interviews are used to identify the primary aggressor, who will then be prosecuted. The charges against the victim are then dropped. In the ordinary case, however, the time after the case is received is spent gathering evidence, such as obtaining medical treatment records (including EMS reports of what the victim-patient said) and obtaining the criminal history of the defendant. In cases where self-defense claims are made, the medical records of both parties are obtained. One problem area is in obtaining 911 tapes. The NYPD does not have the resources to provide 911 tapes in all cases, so requests for these tapes are limited to those cases for which a trial is scheduled.

As needed, the complaint will be redrafted and presented to the court at the next calendar call. Alternatively, a plea offer will be established and presented to the defendant at the next court hearing in the Domestic Violence Part of the Criminal Court. If the plea is not accepted, the case will be continued until the next hearing, in 3 weeks. If no plea offer is accepted, counsel will indicate their readiness for trial and a trial date set. Defendants generally must be tried within 90 days of arrest under New York State law.⁴ On average, defendants will make three court appearances, including arraignment, before plea or trial. Criminal court orders of protection will be extended or modified at the first appearance after arraignment. The NYPD domestic violence unit may be asked by the Deputy Bureau Chief to add particular sites to its list

⁴ In cases in which the District Attorney has insufficient evidence to successfully prosecute (but enough to defeat a motion to dismiss) and the victim declines to testify, cases will not be dismissed until the 90 day period ends in the hope that the victim will change her mind about testifying.

of problem locations for home visits that monitor defendant's compliance with a protective order ban on being at a location where the victim is.

If the defendant accepts the plea, the court will immediately sentence the defendant. In most instances the court will sentence the defendant to a conditional discharge, requiring the defendant to remain arrest free for one year after which the conviction will be erased. The defendant is also required to attend a batterer intervention program whose duration varies according to the specific program requirements. In a limited number of cases, the court may decide to adjourn the case in contemplation of dismissal, a form of pretrial diversion that may also include a program attendance requirement. But the informal policy of the unit is to seek convictions in order to "have a hammer" over defendant's willingness to attend programs. In appropriate cases, the Deputy Bureau Chief will reduce charges from a Misdemeanor A, with a one-year maximum jail sentence, to a Misdemeanor B, with only 90 days jail maximum. This is done in cases going to trial where the Deputy Bureau Chief prefers to have a bench trial, rather than jury trial (there is no right to a jury trial in petty cases). In other cases, the Deputy Bureau Chief will agree to reduce the charges to a violation with only 15 days jail time as long as the defendant agrees to attend a batterer intervention program. In yet other cases, the District Attorney's Office will accept a conditional plea to both a Misdemeanor A or B and a violation; after one year without incident and/or program completion the plea to the misdemeanor offense is dismissed.

An alternative to plea and conditional discharge in New York is a form of pretrial diversion, Adjournment in Contemplation of Dismissal (ACD). Under an ACD, the defendant must not be rearrested within one year or the original charges will be reinstated. However, because an ACD does not require a plea, successful prosecution after case reinstatement is often difficult. Needless to say, the District Attorney's Office does not favor ACDs in domestic violence cases, although such outcomes are not uncommon.

In a limited number of cases, defendants choose to go to trial. Most trials are held in the special Domestic Violence Part, but occasionally, trials will be held in other Trial Parts when the court's caseloads require this. In these cases, a judge less familiar with domestic violence cases will preside.

The court's order of protection is continued after conviction as a limited order of protection for a period of up to three years in Misdemeanor A cases and one year in lesser cases, including cases where an ACD was granted. However, where the defendant does not agree to attend an intervention program, the full order of protection may be continued. The availability of these orders is a critical component of the unit's efforts to prevent repeat offenses. This is because violation of a protective order by a second assault or threat to assault after conviction of a domestic violence assault is a felony.

Attendance at batterer intervention programs is monitored by a special Compliance Part of the Criminal Court; a retired judge presides over the Compliance Part three days each week. Defendants must appear every four weeks to report their program progress. Program representatives are also present to report on client failures or nonappearance, report on in-patient progress, and to deal with client problems that defendants have reported to the court. Failure to appear or a finding of noncompliance by the Compliance Part judge can result in a transfer of the case back to the special Domestic Violence Part for determination of whether a jail sentence should be imposed. Defendants are, however, given every opportunity by the Compliance Part Judge to complete the intervention program. The Deputy Bureau Chief closely monitors the quality of the batterer intervention programs and has reached out to community advocacy groups to foster the development of new, culturally sensitive programs to support victims of domestic violence and provide batterer intervention services. Defendants may also ask to receive treatment from private practitioners subject to screening by the Deputy Bureau Chief.

Another strategy used by the Unit to gain convictions is to pursue probation violations with the cooperation of the City Probation Department. Thus, when a probationer is arrested for domestic violence, the unit faxes a form notifying the Probation Department's domestic violence unit, funded by STOP, of the rearrest. This unit then contacts the probation officer in charge of the case and will also contact the victim to determine what happened. This information is also turned over to the probation officer. The probation officer may then issue an arrest warrant for violation of the terms of probation. According to the Chief of the special domestic violence probation unit, however, revocation and a jail sentence are not common.

When a jail sentence is imposed, most such sentences call for a "split sentence." These require the defendant to report to jail on weekends, but he remain free during the week so that he can keep his job and earn money. Split sentences are most common where the defendant has no prior arrests but the prosecution has evidence of prior domestic violence.

Victim Services Process

Three Victim Services counselors are assigned to the District Attorney's Intake Unit. The unit's planned expansion from only one counselor presently in this unit will allow for complete 24-hour coverage. The Intake counselors review the full case file, including defendant's criminal history, to determine what needs the victim may have, especially safety needs. The counselors' next will undertake early telephone outreach to victims to begin safety planning and to gather facts that add to those available to the ADA from the police report. Additional facts may be gained from Victim Services counselors who are located at police precincts, are familiar with the case, and call the intake counselors. These new facts may then be presented to the Intake ADAs as part of their advocacy on charges to be filed. The counselors hope to be able to present these additional facts to the ADA assigned to the arraignment court; at present, however, the counselors' new information is simply entered into the case file.

Once the Victim Services intake staff have logged in all new cases and made contacts with the victims, this information is forwarded to the counselors at the domestic violence misdemeanor prosecution unit. Photocopies are made of the intake log and follow-up information and the case assigned to a counselor. Only cases requiring continuing contact with the victim are opened by the domestic violence unit counselors. At the same time, an ADA may specifically ask that Victim Services contact a victim or meet with a victim in their offices. Other cases may be referred to Victim Services by other agencies, especially local hospitals (who have a social worker staff unit). The Victim Services unit will make follow-up calls between three to six months after a case is closed. These follow-ups may consist simply of asking, "How are you doing?"

The civil legal services (CLS) attorney funded by the grant is now a full time position under the second VAWGO grant. The attorney is located in the Family Court offices of Victim Services, rather than Criminal Court. She handles cases involving filing for orders of protection

(the Family Court has concurrent jurisdiction with the Criminal Court to issue orders of protection. While the victim may elect to proceed in Family Court to avoid criminal prosecution,⁵ the CLS attorney does not accept those cases since she only takes cases that are also in Criminal Court). She also represents victims in child custody and support matters and even divorce. She will also represent the victim where the defendant seeks an order of protection from the court against the victim (retaliatory order). Another increasing area of her concern is the recent trend by Child Protective Services to charge the victim with failure to protect the child and moving the child out of the home. These cases are another reason for the victim to seek a Family Court protection order when they cannot obtain a permanent Criminal Court order for lack of a conviction. The CLS attorney will also work with the ADAs to obtain evidence for the prosecution. Conversely, her relationship through Victim Services with the ADAs can help her in representing victims in Family Court and is of special utility in obtaining service referrals. Because of caseload pressures, she generally takes only the more factually and legally complicated cases (e.g., stepchildren custody) and retaliatory orders of protection. Case referrals come from the ERT, Family Court STOP funded counselors, NYPD domestic violence units, NYPD victim services officers in three precincts, and Victim Services Community Offices, which provide "walk-in" services.

Facilities

The Special Victims Bureau to which the misdemeanor domestic violence unit is attached is housed in a modern office building two blocks from the Criminal Court building. The offices are the typical cubicle arrangement, are an improvement over the bleak offices previously used in the Criminal Court courthouse. The most important change is the comfortable waiting room areas where police and victims stay before being interviewed by an ADA. These have comfortable couches and television. There is also a special area for children that has toys donated by a retail firm. The area also has a one-way mirror permitting observation of ant interviews with the children. The room also has a video system permitting monitoring or

⁵ Another reason for the victim to proceed in Family Court is that it has the capacity to immediately require and conduct a mental health examination of the defendant. The presence of the victim in Family Court may also help persuade the Court to order such an examination.

audiotaping of the interviews. Victim Services' offices in the building are in the same suite as the Domestic Violence Unit, but located adjacent to the children's room.

Staff

The ADAs handling misdemeanor domestic violence cases number seven,⁶ with one supervisor.⁷ Most of the ADAs assigned to the unit are new assistants. They are selected through a volunteer process from the newly hired and trained assistants. The Deputy Bureau Chief indicated that he preferred new ADAs because they have no preconceived ideas about the relative importance of misdemeanor domestic violence cases. The ADAs are also chosen to diversify the racial and sexual composition of the Unit, a necessity in as ethnically diverse a population as Queens County.

The domestic violence assistants are closely supervised by the Deputy Bureau Chief, who previously prosecuted felony domestic violence cases and served as a training officer. The ADAs have lunch each day with the Deputy at which time they can review any problems that might occur. The lunch may also be used to discuss a common problem of law or practice. On a bi-weekly basis, formal training sessions are held following the lunch period. One such training was on ethics and focused on common problems such as the requirement to turn over discoverable and exculpatory material to the defense. The Deputy Chief or a senior attorney from the Training Division will serve as "second chair" for the new assistant's first few trials; on occasion, the felony ADAs in the Unit will serve in this role. Formal training for the ADAs on domestic violence is initially limited to that provided as part of the new training given to all new hires. In addition, the office is near completion of a desk manual for ADAs to use in court as a resource for handling common legal questions needing appropriate guidance and citation to authority. The Queens County District Attorney's Office is also certified by state continuing legal education authorities as a provider of continuing legal education (CLE), so that in-service training provided to the ADAs goes to meet the CLE credit requirements. One interesting innovation is that when new attorneys take over from the existing Unit staff, the ADAs who are

⁶ An eighth ADA was assigned to the Domestic Violence Unit on a temporary basis after completion of the site visit. Two other ADAs in the Unit are responsible for prosecuting felony domestic violence cases.

⁷ The STOP grant funding for vertical prosecution in felony domestic violence cases pays for an additional 2 attorneys, 1 Victim Services counselor, 1 paralegal and 2 investigators.

rotating out of the Unit remain in place for three weeks with no new case duties to train the new attorneys and to prepare them for the cases that are being turned over to them.

Victim Services staff receive one week training before being assigned to a unit. Otherwise staff receive only on-the-job training. Training materials are, however, provided new counselors. The Victim Services employee relations office may also offer in-service training to the staff. In addition, Victim Services has developed a resource manual for use by its staff in making referrals for services; the manual includes new sources of services that had previously not been identified as being available. In addition, the Borough President's office has a directory of community services that is issued annually.

Emergency Response Team

Police officers, hospital staff, and the District Attorney's "hot line"⁸ may call for the services of the Emergency Response Team (ERT). All ADAs in the Special Victims Bureau are periodically assigned to beeper duty. Felony ADAs have beeper duty twice a month, while misdemeanor ADAs, only once a month.

As needed, the ADAs may respond to a crime scene, a police precinct, or to the hospital emergency room where the victim is being treated. In many cases, however, a telephone consultation is all that is needed.

Victim Services staff are also part of the ERT. Each counselor and the unit supervisor are on beeper duty for 7 days at a time each month. Because serious domestic violence assaults constitute only a portion of the work of the ERT ADAs, the Victim Services counselors are subject to beeper calls much less frequently than are the ADAs. Even then, many if not most, beeper calls to Victim Services staff are handled by telephone. This is because, unless the counselors are called early in the process, the time needed to go to the scene and meet with the victim could delay the victim's taking care of other necessary tasks. Instead, referrals and other immediate need services are made by phone and an appointment set for the next day. Victim Services staff may also be called directly by agencies during the day to handle what would be a beeper call at night.

⁸ The hot line receives information from the NYPD about felony crime reports and arrests. The DA investigator responsible for the hot line has a list of which ADAs are assigned to ERT beeper duty.

Community Outreach

The primary vehicles for community outreach are the Advisory Board and the Borough President's Task Force on Domestic Violence. In addition, the Deputy Bureau Chief, Victim Services supervisors and counselors, and the Victim Services civil legal services attorney all report spending a significant part of their time on community training and education. Victim Services has even developed a formal Power Point presentation explaining what the Arrest Policies project does.

Pre-Grant Conditions

Before the Violence Against Women Grants Office announced its Arrest Policies program, the Queens County District Attorneys Office had already been looking at how the office handled domestic violence cases. However, city funds were not then available for new staffing.

At that time, domestic violence cases were handled by a supervisor and three ADAs, who also handled youth cases; the combined unit also had one paralegal assigned to it. Caseloads exceeded over 1000 cases per attorney per year. Yet domestic violence cases are among the more difficult to handle among all misdemeanor charges. The problem of high caseloads was made worse with the absence of support staff to take over nonlegal tasks from the ADAs. Victim Services were also overworked and could spend no more than 10-15 minutes per victim. There was also no specialized Domestic Violence Court Part, nor a Compliance Court Part.

The procedure was for the ADAS assigned to misdemeanor domestic violence cases to take over cases after arraignment on a non-vertical basis. The Unit's ADAs could take pleas and conduct bench trials. Jury trials were handled by ADAs in another unit. In felony cases, grand jury indictments were handled by ADAS in yet another specialized unit.

Because interviews with victims had been eliminated as part of a citywide plan to speed up arraignments, victims were not interviewed until after arraignment. In most instances, these interviews did not occur until 3-5 weeks after arrest.

After interviews with the supervisor and the domestic violence ADAs, it was determined that the office would focus on misdemeanor domestic violence cases. It was also determined that

the new domestic violence unit would handle all domestic violence cases, not merely a subset of these cases as some other jurisdictions have.

Victim Services had similar problems. Before the grant, its counselors posted in the criminal courts saw only a limited number of walk-in victims, only a portion of whom were victims of domestic violence. Staff were not able to specialize and there were no resources for development of referral resources. Caseload pressures meant that staff had inadequate time to speak with victims, to help with safety planning, and to increase cooperation with the prosecution. Nor was there any capacity to train staff on domestic violence issues. Community and agency training was also not done.

Overall Assessment

Strong Points

The Arrest Policies grant has been used to effectuate change within the District Attorney's domestic violence prosecution unit, Victim Services, and other agencies. These include

- Establishment of a single dedicated prosecution unit handling all domestic violence cases, both felony and misdemeanor within the Special Victims Bureau
- Establishment of a dedicated Victim Services unit serving domestic violence victims from the charging process through case completion and beyond that serves more clients, better and quicker, with follow-up
- Integration of the domestic violence units personnel with the Special Victims Bureau's Emergency Response Team responding in felony cases
- New court structures, with the establishment of a special Domestic Violence Part and a special Compliance Part in the Criminal Court
- Increased vigilance by Probation in monitoring and revoking probationers charged with domestic violence
- Improved police evidence collection and reporting in domestic violence cases
- Improved coordination between police, prosecution, and local hospitals.
- Integration of Victim Services with ADAs in sharing information and working to gain victim cooperation
- Improved delivery of civil legal services

- Creation of new programs for providing batterer intervention
- Encouragement of victim support and assistance programs among specific ethnic populations residing in the Borough
- Dedication and initiative of key leadership among both agencies to persevere and innovate.

The new structures established by the Arrest Policies grant have also been used as the basis for yet other initiatives that use STOP funds. These include incorporation of felony domestic violence prosecution into the unit and a special stalking victims unit staffed by Victim Services.

Gaps

The most significant shortcoming of the District Attorney's misdemeanor domestic violence prosecution unit is its lack of presence at the case intake. One approach to this problem, to have one domestic violence ADA available at all times would require as many as four ADAs. Such an allocation can not be easily justified since domestic violence cases make up less than 10 percent of the total misdemeanor cases handled by the District Attorney's Office. An alternative approach is to train the intake staff in how to screen domestic violence cases better. The difficulty with this idea is that the Intake Unit staff is largely comprised of new inexperienced ADA who rotate out of the Unit every six months. A third approach would be for the domestic violence prosecution unit to "share" an Intake position with the rest of the Special Victims Bureau; this would provide for both trained staff and permit rotation of ADAs assigned to Intake.

Another problem noted by the Deputy Bureau Chief is that of police making dual arrests, notwithstanding legislative and NYPD policy directives discouraging such arrests. This is not an uncommon problem in other jurisdictions. To best attack the problem, statistics on the extent of dual arrests need to be developed. Once this is done, the District Attorney's Office will then be able to show NYPD policymakers that this is a serious issue needing resolution. Specific remedies include training of police, especially supervisory sergeants and patrol officers who are the first to respond to 911 calls for help in domestic violence cases. One possibility is to use the ADAS in the domestic violence unit for roll call training, since this would also be an invaluable exercise for them.

Another training need for all participants in fighting domestic violence is for improved identification of strangulation cases. The indicators of attempted strangulation are not easy to identify unless you know what to look for. Without this training, police are likely to misidentify the primary aggressor, since the perpetrator is likely to show wounds inflicted in self-defense by the victim, who is seemingly injury free and incoherent to boot (from lack of oxygen). Failure to identify strangulation or attempted strangulation cases can be very significant. The few studies available suggest that these cases occur in between 15 and 30 percent of all domestic violence cases and are especially prevalent among youthful domestic violence offenders.

Because of deficiencies in the New York stalking law, there were few indicators of special emphasis on stalking crimes by the prosecutor's office. However, Victim Services does have a special stalking unit funded under STOP. With the enactment of a new, strengthened stalking law in October 1999, increased emphasis on prosecuting these crimes is expected.⁹

Several other problem areas were noted by interviewees. It is unclear, however, how often these cases occur, or what responsibility the District Attorney's Office might have for problem resolution. These included

- Confusion about the availability of Family Court orders of protection. Victim Services and the police domestic violence unit report that they can not obtain up to date information about these orders. If these orders are entered into the state registry, there seems to be a delay in their registry. Failures in obtaining information about protection orders can affect the specific charges filed or the level of the charges.
- The Arrest Policies grant guidelines forbid providing services to male victims. This could present litigation issues for unconstitutional denial of services. This possibility is less significant for the prosecution, since non-grant attorneys can handle these cases, but could be an issue with Victim Services.

Finally, the role of the Advisory Group could be enhanced. The fact that Queens County is home to so many different ethnic groups complicates the degree to which any small advisory group can be truly representative of the population being served. Perhaps in recognition of this problem, the Deputy Bureau Chief has undertaken a series of ad hoc meetings to bring in specific ethnic groups to the work of the project. Given the scope of the problem of building a

⁹ While the new stalking law was passed by both the Senate and the Assembly, a check of the Assembly's Bill Status web site showed that the bill had not been sent to Governor as of October 25.

comprehensive community program in Queens, the assignment of a full time person to this task might be considered in any future funding request.

Summary

Overall, the Queens County District Attorney's Office has developed an excellent project under its Arrest Policies grant. Whatever weaknesses are noted above, they are minor compared to the strong points also cited above. Most impressive is the extent to which the grant funds have been used in conjunction with related criminal justice improvements in the District Attorney's Office, Victim Services, and the Probation Department. This is an excellent project for other jurisdictions to emulate.

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