

**Summary of data and observations**

**SDVC Annual Review**

6<sup>th</sup> July 2010

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This report relates to figures collated from the Specialist Domestic Violence Court held at West London Magistrates Court and provides a summary of the operational issues identified through observation of the SDVC on a weekly basis.

The data section includes headline data for the court covering the 7 years of operation. The data tables embedded at the end of this document provide raw data for Year 7 (2009-2010), split into quarterly periods. This table includes data relating to the SDVC aims and objectives.

The observations section highlights the broad themes that have been observed and discussed at the SDVC Management Group meetings throughout the year.

**Please note that there will not be a data or observation summary presentation at the SDVC review on 6<sup>th</sup> July 2010, however there will be an opportunity to ask questions relating to this report. Please print this report and the embedded data tables to bring to the review on 6<sup>th</sup> July 2010.**

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**1. Key headlines – 7 years of the SDVC at WLMC**

	<b>Year 1 2003/04</b>	<b>Year 2 2004/05</b>	<b>Year 3 2005/06</b>	<b>Year 4 2006/07</b>	<b>Year 5 2007/08</b>	<b>Year 6 2008/09</b>	<b>Year 7 2009/10</b>
Defendants arriving at court	221	158	263	209	224	301	343
% of defendants convicted	36.2%	45.6%	51.0%	50.2%	55.4%	52.8%	47.5%
% of defendants entering early guilty plea	21%	20%	25%	26%	31%	29%	29%
Mean no. of hearings per completed case	4.5	4.5	4.2	4.2	4.0	3.8	3.3
Average no. of days b/w offence and arrival at court	-	-	-	-	-	30	33
Average no. of days b/w arrival and completion at court	-	-	-	-	-	79	75
% discontinuance / withdrawal	26.7%	18.4%	14.4%	13.4%	8.9%	9.0%	7.6%
Percentage NEO dismissal	22.2%	20.3%	18.6%	16.3%	11.6%	16.9%	16.0%
No. of cases ongoing / warrant issued	-	-	-	-	-	8	46

- The number of defendants arriving at the court has been steadily increasing every year since 2006. In Year 7 (2009/10) there was a 14% rise in the number of defendants arriving. The familial cases which were listed to the SDVC since October 2009 has also contributed to the increase.
- The conviction rate in the SDVC has decreased over the past few years. There are still some cases ongoing however when examining the percentage of defendants whose cases completed during Year 7 (as opposed to tracking the cases which arrived during Year 7), the conviction rate was 52%. Data provided centrally by CPS has shown a similar conviction rate of 46.7% which is lower than other SDVCs in London and significantly lower and the national SDVC conviction rate of 71.4%. Please see embedded data tables below for more detailed CPS data.

## **2. Headlines from SDVC aims data for Year 7 (2009/10)**

### **Aim 1: Increase the effectiveness of partner agency's specific role**

- The number of incidents of domestic violence reported to police has increased in both boroughs during 2009/10. However a significant increase of 28% has been observed in Kensington & Chelsea during 2009/10 compared with the previous year.
- Referrals to ADVANCE in Hammersmith & Fulham have been decreasing throughout the year, particularly in the latter 6 months of the year. Compared with the previous year there has been a slight decrease in referrals overall. In particular referrals from police have decreased over the year and during the last quarter of the year there was a 35% drop in referrals to ADVANCE from police (15% drop in all referrals in the last quarter).
- Referrals to Woman's Trust in Kensington & Chelsea from police have been increasing over the year. The number of referrals to Woman's Trust from police as a proportion of the number of crimes recorded increased to 25% in the last quarter of the year.

### **Aim 2: Bring offenders to justice**

- The number of offenders ordered to attend IDAP has remained steady since the previous year, with 42% of convicted defendants being ordered to attend IDAP or undertake the 1-2-1 DV Programme during supervision.
- The number of cases reviewed at Multi Agency Risk Assessment Conferences (MARACs) in both boroughs has increased by nearly 50% during Year 7 compared with the previous year. Over this period the proportion of cases which were repeat referrals has remained at approximately 20% of cases referred. Approximately one third of SDVC cases are also subject to MARAC, and approximately one quarter of MARAC cases are also SDVC cases.
- Victim Impact Statements have been observed to be used in the SDVC on 3 occasions at sentencing stage (2 H&F cases, 1 K&C case). On some occasions the Prosecutor will read directly from the victim's statement to indicate the impact of the incident.

### **Aim 3: Consider the needs and safety of victims and witnesses**

- Pre-trial visits continue to be consistently offered by support agencies to victim/witnesses supported at the SDVC. During an average month in Year 7 the Witness Service supported 7 victims/witness at trial. Over half of these victim/witnesses were offered a pre-court visit and on average 2 pre-court visits were conducted per month.
- In over half of the cases supported at trial by Witness Service, notification was not received of the victim/witness attending court for trial so the Witness Service were not able to offer pre-court visits. When the Witness Service are given prior notice of victim/witnesses attending court a pre-court visit is offered in almost every case.
- According to data provided by the Witness Service, special measures were used 58% of the trials in which the victim/witnesses were supported by the Witness Service during Year 7.

### **3. Data Tables for Year 7 (incl. data for aims of SDVC)**

To view the data tables, click on the link below:

[http://www.standingtogether.org.uk/fileadmin/user\\_upload/standingUpload/SDVC/3. Data Tables 2009-2010.pdf](http://www.standingtogether.org.uk/fileadmin/user_upload/standingUpload/SDVC/3. Data Tables 2009-2010.pdf)

### **4. CPS data provided for 2009/2010**

*The first table below shows data for WLMC SDVC only (with comparison on the 1<sup>st</sup> page with other London SDVCs. The second table provides data for all SDVCs in the country. If you are printing these ahead of the review, only the data in the first table will be discussed. Please use the index to skip between worksheets in these tables; the data is spread over several worksheets.*



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### **5. Annual Observation Summary**

This section provides a summary of the operational issues identified through observation of the SDVC on a weekly basis and summarised on a quarterly basis at the SDVC Management Group meetings.

The following points are summarised from quarterly reports during the year.

#### Key dates during the year

**30<sup>th</sup> September 2009:** the date from which an offence other than Harassment can attract a Restraining Order as part of sentence.

**1<sup>st</sup> July 2009:** the date from which cases of familial violence heard in the SDVC

**15<sup>th</sup> October 2009:** SDVC changed to become an all day remand list (trials stopped being listed to SDVC from 1<sup>st</sup> July 2009).

#### Issues raised and resolved/improved

##### **Victims attending court with letters of withdrawal / Defence producing letters from victims which CPS are not aware of.**

In a number of cases the victim provided a letter to the court / CPS indicating a wish to withdraw and the cases were adjourned for formal withdrawal statements to be made to police. It appeared in these cases that the victims were approaching the court in the first instance rather than the police.

In a few cases the Defence produced a letter from the victim indicating her wishes or feelings which were provided for sentencing hearings as well as to support applications to vary bail. In these cases the CPS were unaware of the letter and the Bench had expressed discomfort about the fact that the correspondence from the victim was being produced by Defence and not CPS.

*These issues were raised with the Court Management Group and were not observed to have occurred after this.*

### **Black & white photocopies of photos on file**

There was a period in the SDVC when a large number of CPS files contained black and white photocopies of injuries sustained and/or damage caused.

*These issues were raised with the Court Management Group and at the SDVC Review in 2009 after which improvements were observed. Furthermore, the implementation of the 'single file' system between police and CPS has contributed to the improvement. Now it is quite rare that CPS do not have colour photographs on file.*

### **Defendants queuing in the court**

Defendants were often 'queued' up inside the courtroom and concerns were raised that this can cause disruption and compromise confidential information being shared between parties in the court (e.g. between IDVAs and CPS).

*This issue was raised with the Court Management Group and is rarely observed in the court now.*

### **Dates to avoid on file**

Over a number of months CPS file did not contain dates to avoid for prosecution witnesses. In many cases the Court would allow 14 days for CPS to apply to vacate the trial date however over time the Court became less willing to do this.

*Improvements have been observed in this area after being raised with the Court Management Group and SDVC Review in 2009. There are still files in which dates to avoid are missing and these are highlighted on the weekly observation summary.*

### **NMO and bail conditions**

There were a number of cases in which bail condition imposed by the court were to 'abide by the NMO' and in all such cases the offence was breach of the NMO. In one case the NMO expired in between court hearings meaning that the defendant was not under any court bail conditions.

*This issue was raised with the Court Management Group and since then it has been observed that in cases where there is an NMO the bail conditions have been imposed separately, but in line with the conditions of the injunction.*

### **Cases being transferred to other courtrooms on SDVC days**

Since the start of an all day remand list in the court, there were a number of SDVC days during which cases were transferred out of the SDVC to other courtrooms during the afternoon session. In some cases this caused problems for the dedicated Probation Officer who was unable to follow the cases and be in the SDVC at the same time. It also meant that information was potentially lost since IDVAs had communicated with the SDVC Prosecutor regarding the victim's wishes prior to the case being transferred to another courtroom.

*This issue was raised with the DV Lead Legal Adviser at WLMC and very rarely occurs now. In the cases when it does occur, all parties are advised that the case is moving, and only specific cases appear to be moved (i.e. non reports).*

## Observations

### **Increase in female defendants + previous history as victims**

As the data indicates, there has been a significant increase in the number of female defendants entering the SDVC. The majority are for offences against male victims. One of the cases was a same sex relationship and the remainder were familial cases.

Between April 2009 – March 2010, there were 25 female defendants brought to the SDVC, constituting 7% of all defendants arriving at the court. This figure compares to 10 female defendants arriving at the court during the same period last year.

Of the 25 female defendants, 19 involved male (intimate/former intimate partner) victims. In four of these cases the female defendant had been through the SDVC previously as a victim (one of these on several occasions). A further two defendants reported that they were making counter allegations to police at the time of the court case. It is possible that more female defendants reported suffering domestic violence however unless they were previous victims in the SDVC or specifically made counter allegation this was not captured.

### **Increase in use of restraining orders for non harassment offences + post acquittal restraining orders**

Between October 2009 and March 2010, seven of the Restraining Orders imposed in the SDVC have been for offences other than Harassment. This constitutes 44% of all Restraining Orders imposed in the SDVC during this period.

CPS have been fairly consistent in asking the Court to consider imposing a Restraining Order, and IDVAs have often provided information CPS regarding the victim's wishes in relation to such Orders.

In addition, it has been observed that in some cases a restraining Order post-acquittal has been imposed. In one case this was after a not guilty verdict and CPS made a strong application to the court for a post-acquittal restraining order to be imposed. Despite objections from Defence the application was granted. The other observed case involved a Restraining Order being imposed despite CPS offering no evidence at trial. The victim attended and the defendant agreed to be subject to the restraining order if the case was dropped.

### **Use of 1-2-1 DV programme when IDAP not suitable**

There have been a number of defendants sentenced to undertake the 1-2-1 equivalent of IDAP for defendants who have not been deemed suitable for IDAP groupwork. During Quarter 4 (Jan-Mar 2010) of 2009-2010, it has been observed that 6 defendants have been required to undertake the 1-2-1 DV programme as part of the supervision element of a Community Order.

In addition, a total of 61 defendants were ordered to attend IDAP during the year, meaning that 42% of defendants convicted and sentenced in the SDVC during the year were required to undertake specific work with Probation around domestic violence.

## Challenges

### **Special measures**

This area remains an issue, however work has been done by partner agencies to improve the process. The challenges are in several areas:

- a. MG2 forms being completed by the OiC and reaching the CPS file
- b. Applications for special measures being made on time by CPS
- c. Victims being advised if special measures are granted

Various steps have been taken to improve the special measures process, including notes on MG5 forms to indicate that they have been considered, and lists of cases in which MG2s are absent included in the weekly court observation summaries. Benches consistently ask CPS about special measures, and as yet it has not been observed (on an SDVC day) that a special measures application made in time has been refused.

### **Victim impact statements**

Benches have expressed the value of Victim Impact Statements but unfortunately they remain very rarely observed in the SDVC. Consideration has been given to IDVAs being trained to take such statements, and in K&C this has happened. However to date only one such statements has been observed. It remains an issue of resource for IDVA services.

### **Flagging of cases (pre 1<sup>st</sup> appearance and beyond)**

Most SDVC days involve a number of cases being transferred from Court 4 on 1<sup>st</sup> appearance once it is established that they are DV. This highlights a flagging issue relating to police.

In cases when the 1<sup>st</sup> appearance is on a non SDVC day, pink bail forms should be marked as DV and a copy left in the Witness Service for tracking. It is not clear how consistently this is done.

With more cases going to other courts for trial, the importance flagging of DV cases is further highlighted due to the need to ensure that the cases are listed back to the SDVC at WLMC subsequent to the trial.

Examination of cases on Standing Together's tracking database from crime reports in Hammersmith & Fulham has revealed that a number of police incidents resulting in charge did not appear in the SDVC. Nearly 70 defendants charged by police between April 2009 – March 2010 did not appear in the SDVC. This is an area in need of improvement.

The data received by CPS centrally as part of the national SDVC monitoring requirements also indicates that SDVC cases are not being consistently flagged on the CPS systems. 2009/2010 data from CPS shows results for 90 defendants / cases. The tracked data derived from observations in the SDVC show that during this period 312 defendants/cases completed during the same period, indicating that more than two thirds of the cases in the SDVC are not being flagged as such by CPS.

### **Police use of exclusion zones in bail / vague bail conditions**

In a few cases the Police bail conditions have been amended to avoid any confusion for the defendant. In particular this has related to the use of yards or metres in

exclusion zones, and vague terms used in the wording of the bail conditions. Such cases are highlighted in the weekly observation reports.

### **IDVA support for K&C cases**

Due to funding issues (in particular since core GoL funding related to the SDVC ceased) the IDVA service in K&C has been unable to provide representation at the SDVC on a weekly basis.

### **Support provision for same sex / male victims / familial**

The expansion of the definition of DV cases listed to the SDVC to include cases of familial violence has highlighted the implications of support for victim/witnesses in such cases.

This has highlighted the potential gaps and differences in specialist services offered to survivors of varying types of domestic violence. Services differ in who they can provide with specialist support depending on gender, borough of residence, referral route, risk levels and type of relationship (i.e. intimate/former intimate, familial, same sex, etc.)

Work is to be done to establish clear referral pathways to specific services according to the particulars of each case.

In any event the Witness Service provides support for victims and witnesses attending the court for trial and offers pre-court visits to victims and witnesses for whom they have received a referral from the Witness Care Units.

### **Trials going to other courts and implications of this**

Due to a backlog of trial listed at WLMC, some DV trials have been listed to other court is the South West sector. The potential implications of this practice relate to:

- problems for victims in travelling to other courts;
- resource issues for IDVAs to attend court to support their clients at trial in other courts;
- ensuring that suitably trained Prosecutors, Magistrates and Judges (as well as other court personnel) are hearing the trials;
- getting timely results in relation to the outcomes of trials, and bail conditions, etc. which has implications on victim/witness safety;
- ensuring that cases are listed back to WLMC and to the SDVC after trial (if applicable);
- suitable court facilities and Witness Service support for victims attending other courts.

The other courts were surveyed by WLMC who recommended that DV trials are suitable to be transferred to Wimbledon, Richmond and Kingston Magistrates Courts.

The Court Management Group has agreed that interested agencies (such as Standing Together or IDVAs) can highlight if certain cases may not be suitable for sending to another court (such as repeat offenders, or particularly high risk cases) however a formal agreement of the specific criteria of such cases has not been made.

## **Information from Isleworth CC**

Since cases from WLMC have been committed to Isleworth Crown Court there have been some problems experienced in obtaining results from the court as well as bail conditions.

Standing Together are trying to resolve the issue with Isleworth however a simple information exchange agreement has not been made and should be sought for the long term.

This issue highlights a need for stronger engagement with the Crown Courts which has been mentioned for years within the Court Management Group and SDVC Reviews.

## Good Practice

### **SDVC PLO**

The value of the SDVC Police Liaison Officers who attend on a weekly basis from the CSUs in each borough is highlighted on a weekly basis. CPS utilise the SDVC PLOs to differing degrees however since the CPS teams have split by borough the assistance of a police officer in court is increased.

The presence of the officer to assist in cases often negates the need for further adjournments of cases, and their assistance in contacting victims in order to obtain vital information is invaluable.

It is recognised that both CSUs are extremely busy and to commit to providing an officer to attend the SDVC is gratefully acknowledged.

### **Dedicated Probation Officer**

Having a dedicated Probation Officer in the SDVC on a weekly basis has resulted in vast improvements in relation to PSRs and delays in relation to sentencing in the court.

The dedicated officer checks all the PSRs before they are presented to the court and on a number of occasions has made checks with PSR Writers and Offender Managers to ensure that details are correct and recommendations are suitable.

The officer is also proactive in highlighting risk at any stage in court cases and has provided essential information in relation to defendant's existing community orders or licences to inform Court sentencing and bail decisions.

The resource of this dedicated Probation Officer to the SDVC is certainly evidence of best practice.

### **So called 'victimless' prosecutions**

It has been observed that a number of cases in the SDVC involve the CPS relying on evidence other than that of the victim.

It is not always clear from observations which cases are not being supported by the victim and thus it may not be accurate to analyse the success of such cases in comparison to those in which the victim's statement and evidence is being relied upon.

However prosecuting cases in which the victim is not being relied upon goes towards removing the onus from the victim and using alternative evidence to prosecute cases.