

PARTNERSHIP BETWEEN COURT AND COMMUNITY
The North Battleford Domestic Violence Treatment Option Court

Judge Violet Meekma
Provincial Court of Saskatchewan
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1. Historical Background

The North Battleford Domestic Violence Treatment Option Court (DVTO) began regular sittings in April, 2003. At the outset, the decision to implement a therapeutic court specializing in relationship abuse came about as a result of meetings involving the three provincial court judges sitting in North Battleford, both the psychologist responsible for delivering the men's treatment program and the social worker counselling women victims at Battlefords Mental Health Centre, and representatives from the Crown and Legal Aid.

We had heard about the new Yukon DVTO court from judges there and read about the research conducted by Edward Gondolf in the United States, which concluded that batterer counselling programs combined with periodic court review contribute to a substantial reduction in re-arrests. With the assistance of a representative from Sask Justice (Family Violence Programming) a couple of initial meetings with representatives from the court and community agencies had taken place during the previous year.

It was the decision of psychologist Chris Turner to admit offenders into the Mental Health group counselling program while sentence was still pending - an innovative approach in Saskatchewan at that time - which then presented the opportunity to introduce a model similar to the Domestic Violence Treatment Option Court already underway in the Yukon Court.

It was agreed that there must be incentive for the offender to admit responsibility and undergo

programming, which could be in the form of a more favourable sentence. What we hoped to achieve was a greater number of offenders completing treatment programs and thereby better protection for the victims.

Prior to this, the number of offenders charged was high but the number pleading guilty or convicted after trial was low, primarily due to complainants recanting or failing to testify. Without conviction, treatment could not be ordered so was seldom undertaken. Some offenders would be charged numerous times, all with the same result. Some complainants were charged with obstruction or perjury. Huge blocks of court time went unutilized as trials collapsed. It could take 7 months to get to trial, and another 7 if on the first date either accused or complainant failed to appear. For those who were mandated to take treatment following conviction, the non-completion rate was high as well. Just getting charges before the court for breaching the probation order was a lengthy process. If the plea was not guilty it would be several months before the trial was held. Regardless of the outcome at the end of the day, the offender remained without treatment.

The new DVTO Court began sitting within 2 months of the judges meeting with Turner and the lawyers. Chief Judge G. Seniuk supported the initiative. Other community agencies were quickly brought in to sit on the planning committee as needs were identified: Victim Services, RCMP, other organizations providing counselling services for victims and offenders such as Kanawayimik Child and Family Services and Catholic Family Services, the Women's Shelter, Probation Services, Addiction Services, DCRE (provincial department responsible for child protection), Aboriginal Court Workers, and Department of Justice representatives from Policy, Planning & Evaluation and Family Violence Programming.

2. The Partnership of Court and the Community in Developing the DVTO Court

Credit for the successful development of a model which we believe meets the needs of victims and offenders must be shared by all of the agencies involved. Their regular participation in ongoing steering committee meetings is encouraged and expected, where issues and concerns are discussed with candour and openness. Policies are established and parameters are set. Although in court the judge is still responsible for final decisions, most interventions and outcomes are predictable in accordance with policy debated and agreed to at steering committee meetings.

When the judges first met with the counsellors and legal representatives to discuss a therapeutic court specializing in domestic violence, we had in mind only a very general vision involving some basic fundamentals - an early guilty plea, delaying sentence to accommodate completion of treatment, regular reporting to the court to monitor progress, and a reduced sentence (likely community based) upon successful completion. Although those basic fundamentals are still tenets of the DVTO Court, most policy and procedure has been developed by the steering committee over the past 3 ½ years.

Some aspects of DVTO Court policy and procedure which developed over time with steering committee input include:

- eligibility criteria
- release conditions imposed by the arresting officer
- referring victims to victim services
- method of recording agreed facts on guilty plea
- recognizance terms imposed on guilty plea
- type and use of risk assessments
- protocol for informing victims of program collapse
- grounds for removal from programs and DVTO court
- prerequisites for removal of no contact conditions.

The steering committee meets monthly. Issues and concerns are discussed and addressed before

a crisis develops. Needs are identified and solutions or courses of action are debated and agreed upon. There are no votes taken, and the judges are still in charge of the conduct of the court, however the wishes of the committee as a rule are followed. The court model is constantly evolving and all members of the committee contribute to that process.

Needs which require funding have been met by the continued support of the Department of Justice. The presence of a representative from Policy, Planning and Evaluation at all steering committee meetings ensures that Justice is aware of such needs as they arise. Examples where assistance has been arranged or provided by the Department of Justice include: contracting with an evaluator (Mike Boyes Ph.D.) to assist with compiling and analysing data and evaluate the effectiveness of DVTO; funding a one half time co-ordinator for the court; funding Victim Services adequately to ensure that a victim services worker is always available to work with DVTO victims and attend court; funding domestic violence counselling programs delivered by Kanawayimik Child and Family Services, an aboriginal agency which delivers culturally based programs; funding an educational program for children who witness domestic violence by Catholic Family Services; funding dedicated Legal Aid for the court. The Department of Justice personnel attending the meetings also provide non-monetary support and expertise, e.g. in preparing protocols.

3. Role of the Working Committee

All members of the steering committee, excepting the judges, are also members of the working committee. The working committee has the extremely important task of deciding on recommendations to be made to the court on specific files. The members of this committee who regularly meet prior to every court session are: Crown, Legal Aid (and private defence counsel when applicable), Victim Services, Probation Services, Addiction Services, and the counsellors from both the Kanawayimik and Mental Health domestic violence treatment programs.

The progress of each individual will be discussed by the group. The group has access to the

ODARA risk assessment which is prepared by the probation officer as soon as guilty plea is entered. Frequency of attendance and participation at both addictions counselling and domestic violence programming will be discussed. Whether an offender should be discontinued from programming or DVTO is debated, as well as when no contact conditions can be lifted. The group may also discuss follow up conditions to be included in a community sentence. Usually, agreement is reached on these issues at the working committee meeting for presentation to the judge in court.

In addition to the function each member of the committee performs in providing individual services to the offenders or victims, members of the working committee who work directly with the offender are expected to attend every court session where they provide an oral progress report in open court. We believe this is a very important aspect of the DVTO program. Positive reports from the counsellors in the public forum are rewarding to offender and encouraging to others waiting in the gallery. If the reports are other than positive, we have the opportunity to discuss difficulties the offender may be having and try to arrive at solutions. Dialogue with the offender is encouraged and the court is set up in such a way as to facilitate discussion. Noone stands with his/her back to the gallery or to the offender.

4. The DVTO Docket Court Process

All accused charged with a domestic abuse related offence who are released by the arresting officer make their first court appearance at the next available DVTO docket court (one of 2 mornings each month). This ensures a first court appearance within 2 weeks.

The eligible charges include assaults, mischief, stalking, threats and breaches. *All* accused who are released are on conditions which include no contact with the complainant.

Dedicated Legal Aid, an Aboriginal Court Worker and Crown counsel are available in court. If

time is required for the accused to consult with counsel, a matter is adjourned for 2 weeks to the next DVTO court. On the return date, if the accused pleads guilty he/she is referred to the next available treatment program, as well as one on one counselling if there will be a delay of any length before entering treatment. The offender must sign a new recognizance which includes reporting immediately to the probation officer for completion of an ODARA risk assessment and thereafter as directed for on-going monitoring and supervision by the probation officer until sentenced. The condition providing no-contact with the victim will again be included. If addictions are identified as an issue, the offender must also report to Addiction Services. The offender must admit on the record that he/she is accepting responsibility for the offence and an agreed statement of facts is filed with the Crown for use at the future sentencing. The victim is referred to Victim Services by the court and Victim Services prepares the victim for the risk assessment interview with probation, as well as providing the victim with information on the services available to the victim both through Victim Services and other agencies in the community.

Often, counsel will agree on the sentence or range of sentence before plea. The usual practice of the court is to sentence the offender to a discharge or other community based sentence upon successful completion of treatment. The range is from absolute discharge to conditional sentence. In 3 ½ years, no offender who has successfully completed his/her programs and “graduated” has been sentenced to custody.

Accused who do not plead guilty or choose to be sentenced in the traditional manner are transferred out of DVTO into regular docket court. Depending on the availability of counsel, the matter may be spoken to in the other courtroom that same morning. Trials are expedited whenever possible and are usually heard within 3 months.

In addition to regular attendance at domestic violence programming, reporting to probation, and taking addictions counselling if directed, the offender who chooses the DVTO option must attend DVTO court monthly during the course of treatment for monitoring. Participation in the

DVTO court continues to be voluntary and at any time the offender can opt out and be sentenced. Similarly, an offender can be removed from counselling programs for non-attendance or non-participation. This results in immediate termination from DVTO court. An offender may also be terminated for not attending court. In these cases the offender is transferred into regular docket court (not DVTO) for sentence as soon as counsel are available- again, the same morning whenever possible.

Termination from a counselling program is left completely within the discretion of the counsellors. One of the functions of the working committee is to discuss such a course of action with respect to a particular offender, and progress in other areas or submissions by defence counsel at the working committee group may convince the counsellor to give the offender another chance. The judge, however, will not ask a counsellor to keep someone in program who has been terminated. Nor will an offender who has been removed from one program be allowed by the court to transfer to the other, unless that is the recommendation of the working committee (which has occurred in some circumstances).

The condition requiring no contact with the victim in the release document may be changed by the court when requested by the victim and is usually recommended by the working committee after the offender has completed one third of his/her programming. As well as the wishes of the victim, the committee considers the risk assessment prepared by probation. If the committee (which includes the Crown) agrees with the request, the court will remove the condition. The steering committee believes that requiring partial completion of programming before removing the condition lowers risk and places less pressure on the victim to agree to contact at the outset.

We also must appreciate the reality that if the victim wishes contact and we make the terms too onerous, the condition may be breached by the parties. Whatever the reason, whether out of fear, love, loyalty, financial insecurity, family pressure, childcare needs, or other factor, many of these victims will resume a relationship with their abusers. We must do everything we can to reduce the risk if and when that occurs.

Sentencing in the DVTO court is a revealing and rewarding exercise for all involved. After providing the facts, the Crown usually relates in detail the step by step progress of the offender - at times there may have been setbacks but he/she carried on despite the challenges. The Crown will make a recommendation on sentence, usually agreed to by defence. The supervising probation officer, addictions counsellor, and violence treatment counsellor all provide the court with verbal reports on the offender's participation and completion of required programming, as well as their suggestions for any further involvement with their agencies. Defence will also make submissions, including family and personal circumstances. Often, there will be positive changes in other areas of the offender's personal life, such as employment, as a result of this intervention and the progress the offender has made. The offender often adds to counsel's comments by sharing some of his/her own personal experience. The entire gallery benefits from hearing about such successes in an atmosphere of healing and commitment. Finally, the judge in imposing sentence commends the positive steps taken by the offender. The offender is held accountable but given credit for participation in programs which reduce risk.

The specialized court environment is critical to many aspects of DVTO. It allows for less formal, open communication. Participation of the counsellors and bail supervisors in this dialogue is encouraged and accommodated. Several offenders in the court room attend the same therapy group and benefit from the sharing of information and support. Attendance at the court itself is an integral part of the offender's therapy.

5. Successes and Rewards

The recently completed Evaluation Outcomes Update Report on Data from April 2003 to October 2006 by Mike Boyes Ph.D. provides current statistics. It indicates that since our inception on April 10, 2003 until September 30, 2006, 321 individuals charged with domestic violence offences have appeared in DVTO. 270 have been male and 51 have been female.

There were 287 charges of common assault, 55 of assault with a weapon, 1 of aggravated assault, 11 of assault causing bodily harm, and 33 of uttering threats.

The time elapsed between the date of the charge and first appearance in DVTO court has declined each year since the court began. For the period April 2005 to October 2006, 45.16% appeared within 14 days, 77.2% within 1 month, and 96.77% within 2 months. Many individuals who first appeared after 1 month failed to appear on their first court date. Ensuring early court appearances is one of the objectives of DVTO and is monitored closely by the steering committee.

The average length of time from the date of the charge to the last appearance in DVTO was 7.2 months.

Of all DVTO offenders charged since April 2003, 171 have pleaded guilty to a “core offence” (assaults, threats). Of those, 77 males have been referred to the Kanawayimik program and 73 to the Mental Health program. Females are usually referred to one on one counselling, either because it is more appropriate or there are insufficient numbers for a group.

To date in the Mental Health men’s program, 56.16% of DVTO offenders (73) completed straight through, compared with 60% of self referrals (of which there were only 5) and 50% of those sentenced (12). Pre-group collapse was 1.37% for DVTO clients and 8.33% for those sentenced. (There is no pre-group collapse for self referrals.) In-group collapse was 42.47% for DVTO offenders, 40% for self referrals, and 41.67% for those sentenced.

Statistics for the Kanawayimik men’s program have been updated as well. The previous analysis provided similar statistics of 50.7% completed straight through the Kanawayimik program. The updated statistics show 67.5% of 77 DVTO clients completed the Kanawayimik program straight through, compared to 50.7% of 69 sentenced clients and 29.0% of the 100 who were self referred.

The Kanawayimik program attracted many more sentenced and self referred clients allowing Dr. Boyes to compare the relative impact of the DVTO over sentencing requirements and self referrals. Pre-group collapse in Kanawayimik was 10.4% for DVTO referrals, 20.3% for sentencing referrals, and 23.0% for self referrals. In-group collapse was 22.1% for DVTO men, 30.0% for those sentenced, and 48.0% for self referrals.

Combining the program outcomes gives us the following results:

Completing Straight Through

DVTO referrals	62.0%
Sentencing referrals	50.6%
Self referrals	30.5%

Pre-Group Collapse

DVTO referrals	6.0%
Sentencing referrals	18.5%
Self referrals	21.9%

In-Group Collapse

DVTO referrals	32.0%
Sentencing referrals	30.9%
Self referrals	47.6%.

The most recent evaluation update pegs overall DVTO recidivism for completers at 6.5%. Of those attending the Mental Health Alternatives to Violence program, 1 completer had a new assault charge, 2 who failed to complete re-offended after leaving the program, and 1 received a new charge while still in group. 1 received harassment types of charges and 5 were charged with fail to appear or breaches.

5 Kanawayimik completers were subsequently charged with assault and 1 with threats. The

average length of time to these new offences was 18 months.

We have yet to notice a decrease in the number of offenders charged with this type of offence. However, this does not necessarily mean that the number of offences is not decreasing. Victim Services personnel tell us that many victims are less reluctant to co-operate with the police when they are aware that with the DVTO option, they will not be required to go to court to testify and the offender is not likely to go to gaol.

Another positive is the huge increase in numbers of victims utilizing the assistance of Victim Services. As with the offender counselling programs, DVTO has resulted in a large increase in the utilization of those resources - not because of an increase in the number of assaults, but because the offenders and victims are finally accessing them.

Victim Services is funded by the Department of Justice from victim surcharges imposed by the courts on all offenders. Contact information for Victim Services is provided to the domestic violence victim by the investigating officer. Victim Services operates out of the RCMP detachment building in North Battleford so is very accessible at the time the victim attends to complete her or his statement.

Personnel from Victim Services provide crisis intervention, safety planning, support and court assistance for the victim. The victim may be assisted with an application for an Emergency Intervention order, or referred to appropriate agencies for shelter or counselling. With the victim's permission, Victim Services maintains regular contact with the victim regarding file updates, assists with the completion of a Victim Impact Statement, accompanies the victim to court, and will represent the victim in court and at the working committee meetings. Victim Services is informed if the offender breaks treatment or fails to attend court and will contact the victim to assist with a safety plan.

The Victim Services statistical record for the year ending March, 2006 indicates 71 new female clients affiliated with DVTO for the 8 months from August, 2005 to March, 2006. Services provided on active files over those 8 months included 275 instances of information provided, 491 supports (visits, transportation, court attendance, etc.), 459 witness/victim services, 247 referrals to other agencies, and 719 other services.

When an offender breaks treatment, everyone including the court and the victim know immediately. Unlike a breach of probation, where laying charges may take weeks and a trial may be delayed for months, the offender is sent directly to sentence on the original charge so the consequences are immediate and risk to the victim reduced.

Other problems which may be risk factors for the offending behaviour can be identified and addressed in DVTO court, such as addictions, employment training, psychological or mental health issues, as a result of the working committee team in place and the various assessments and expertise which is available to help the offender. Such a creative group of professionals often comes up with creative solutions.

A direct benefit to the Provincial Court is that it is now the exception, rather than the norm, when a domestic assault is set for trial. This has resulted in huge savings in court time which was often left unutilized when witnesses failed to appear. Those cases which do proceed to trial are fast-tracked, and all cases, not only domestic violence, now receive earlier trial dates as a result of reduction in the backlog.

The judges who participate in DVTO are rewarded with a sense of satisfaction and accomplishment that comes from knowing that we have made a contribution, as part of a team, to improve the lives and safety of families in our community. Through open communication with the offender and the various agencies involved in this collaborative process, we are closely involved in the unfolding of each case. We share the successes, the transgressions, the rewards

and the consequences of failure. Through empathy and understanding we come to appreciate the challenges and accomplishments of the offenders and their families. When they are successful, to share in that success is a moving and humbling experience.

6. Challenges

Nothing worthwhile is without some hurdles. Through the regular meetings of our committee of community partners, a dedicated team of professionals committed to this concept, we are able to meet those challenges as they arise. We firmly believe that Domestic Violence Treatment Option Court is here to stay in North Battleford, Saskatchewan and are not looking back.

Some of our challenges no doubt are also responsible for our success. Consistency in personnel - the counsellors, dedicated Crown and Legal Aid - have always been a challenge to maintain. Simply ensuring the continued servicing of the court by Legal Aid has been an ongoing issue throughout our 3 ½ years. Encouraging the programs to have back up counsellors - we have experienced gaps in programming when counsellors left their employment. Transportation is often an issue for some of the rural clients. Ensuring that all of the counsellors attend meetings and court regularly. But only by experiencing those challenges have we come to realize the importance of each person's role in the partnership.

Among the most appreciative and privileged to be a part of this community project are the judges. Participating in the formulation of this court and on-going involvement with it has been the most rewarding work of my judicial career.

REFERENCES

Boyes, M., Domestic Violence Treatment Option Court in North Battleford Saskatchewan
A First Analysis of Data April 2003 to December 2005

Boyes, M., Domestic Violence Treatment Option (DVTO) Court in North Battleford Sask
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