**PRESS**

**RELEASE**

**From Northumbria Police and Crime Commissioner, Dame Vera Baird QC**

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**Specialist Domestic Violence Courts should do more to stop defendants ‘gaming the system’, improve the courts understanding of coercive control and need Independent Domestic Abuse Advocates at every stage to help complainants and victims**

A new report from Northumbria Police and Crime Commissioner Vera Baird “Specialist Domestic Violence Courts – How special are they?” should act as a wake-up call to the government as they move forward with their Domestic Abuse Bill, to make sure that measures which already exist are working properly.

Volunteer court observers, mainly from the North of England Soroptimists and trained by CPS and the Courts Service, observed 223 cases between July and November 2017. They found a significant number of gaps in the system but that if both funding and training were improved SDVCs would work as was originally intended.

Specialist domestic violence courts (SDVCs) were rolled out nationwide from 2005. They are ‘problem-solving courts’ copied from the Canadian and Australian models which bring specialist focus to issues which are hard to deal with in the ordinary courts. Magistrates, CPS, police and court staff were all trained that the essence of domestic abuse is a pattern of coercive control using physical sexual psychological emotional and financial abuse which make the victim helpless and too frightened to seek help. They would be afraid and reluctant to come to court and would need support and expert advice to help them to feel safe and to manage their risks.

Over the last decade many reviews have shown these courts to be effective if that training and input, together with a series of 10 other components such as separate listing of abuse cases, courses for convicted perpetrators and the engagement of children’s services are maintained.

However the Northumbria observers raise a number of concerns which may point to those elements having weakened.

**Gaming the system**

In 12 out of 21 not guilty pleas, defendants changed their plea to guilty on the trial date, as soon as the victim entered the court building. One judge commented about defendants ‘gaming the system.’

Fixing a trial date, inevitably some weeks ahead, following a preparatory hearing at which a not guilty plea is entered, requires lawyers and magistrates and costs but, critically, makes the complainant believe that she will have to give evidence against the defendant, perhaps face to face and that she will be cross examined to try to undermine her account. If the defendant is, in fact a controlling abuser, this is a frightening prospect for his victim and one which he can manipulate to try to make sure she does not attend.

In these cases, their immediate plea change when the complainant arrived at court shows that, in truth, none of these 12 defendants intended to challenge their complainant’s account. They were, indeed ‘gaming the system’ to give themselves the best chance of an acquittal by keeping her away. In that context it is particularly important for not guilty pleas in domestic abuse preparatory hearings to be challenged by the courts, if there is no apparent defence shown on a perusal of the case papers. Such challenging is done frequently in many kinds of criminal courts but despite the judge’s comment, it was never done here, where it was especially appropriate.

Problematically, in thirteen other not guilty cases, the complainants did not attend on the dates fixed for trial and the courts speedily dismissed the cases and acquitted the defendants. In over half of those cases that was done despite CPS arguments against it, despite the awareness that abusers do game the system and despite the supposed understanding that SDVCs should make allowances for the fear or reluctance of complainants to testify in domestic abuse cases.

The obvious concern is that the change of plea cases may have been unsuccessful attempts at coercive control and the non-attendance cases successful ones.

In addition it was particularly worrying that no contextual material informed those dismissals, such as whether the defendant had previous convictions for abuse against the complainant, which would be highly relevant to the risk that might follow from the decision to stop her case.

**Understanding coercive control**

The way in which these cases were managed may call into question how widely coercive control is understood. Many contested trials were not heard in Northumbria by the SDVC where domestic abuse training is compulsory but adjourned to the ‘ordinary’ courts where it is not and the majority of these dismissals were presided over by lay magistrates who may, through no fault of their own, be inexperienced or have limited training in this complex field.

Similarly, some courts were prepared to vary defendants’ bail at preparatory hearings or on guilty pleas to facilitate child contact although neither complainants nor their advisers attend those hearings and so there is little information from their side. Child contact, is properly dealt with in the family courts and is well known as a mechanism by which an abuser can seek to reimpose control over a victim. Concerns grew when in one case a defendant told the court that his mother could supervise child contact yet the CPS lawyer, by coincidence, remembered prosecuting him for assaulting her.

Sentencing Guidelines issued in 2006 and 2018 rule out a number of mitigation arguments which are incompatible with coercive control. These include that the complainant provoked the defendant on one occasion, described as to be treated with the greatest care and rarely a mitigation. A plea that someone has a good character in the outside world cannot mitigate serial crime committed at home and kept secret through the perpetrator’s controlling efforts. The guidelines do not feature the influence of drink as a mitigation and perpetrators of abuse are just as controlling when sober. Nonetheless all of these arguments were frequently deployed on behalf of defendants who had pleaded guilty or were convicted in these cases yet the courts made no reference to their irrelevance to sentence even though common sense shows them to be so once coercive control is understood. It is not clear whether the contents of the guidelines were known about and it is impossible to know what impact the arguments had on actual sentences.

**IDVAs are essential**

Independent Domestic Violence Advisers were rarely seen at court though, when established originally, they were intended to attend preparatory and sentencing hearings to represent the complainants’ interests about such issues as bail which are decided at those times. Local authorities have funded IDVA provision despite deep funding cuts but they cannot keep up with the increased numbers of reports now being encouraged by improvements to the policing response.

The absence of IDVAs and concerns about inadequate training for justice staff are clearly resource issues which are undermining the presence of the components repeatedly acknowledged to be essential if these specialist courts are to work as they should.

 “Domestic abuse complainants deserve a justice system that understands their needs and our new report “Specialist Domestic Violence Courts – How special are they?” shows that there are gaps, in funding and even in understanding of the issue which gave rise to these special courts in the first place. Victims expose themselves to enhanced risk when they report to police and agree to testify and full appreciation of that should feed into every step taken thereafter by the justice agencies. A wider review of how these long-established courts are working would be advantageous as we focus on preparing to legislate a new DV Bill,” said Dame Vera.

**The report is attached, it can also be downloaded via** [**www.northumbria-pcc.gov.uk**](http://www.northumbria-pcc.gov.uk) **on the day of publication of the press release.**

**Footnotes:**

**How the Observers panels worked and what they did:**

         Between July and September 2017, a group of voluntary observers from local Soroptimists Clubs, attended the Northumbria Specialist Domestic Violence Courts, then located on two sites, at Bedlington and Gateshead.

         Trained by CPS, working largely in pairs, these observers sat in on a total of 223 cases, undertaking more than 300 observations using a semi structured questionnaire to ensure consistency in the information gathered.

         In total, 76 (45%) cases were observed at the Northern SDVC in Bedlington, 94 (55%) were observed at the Southern SDVC in Gateshead.

         Of these, 79 (46%) were heard by District Judges and 91 (54%) were heard by benches of Lay Magistrates across the two courts.

         Of these 170 cases, 159 (93.5 %) involved a male defendant and 11 (6.5%) a female defendant.

         Of these 170 cases, 149 (88%) involved a female complainant, three (2%) involved both a female and male complainant, eight (5%) involved a male complainant and ten (6%) involved a complainant whose gender was not identified by the observer(s).

The PCC for Northumbria would like to thank the CPS, HMCTS, our veteran court observers and Soroptimists International for this work

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