New York's Problem-Solving Courts Provide Meaningful Alternatives To Traditional Remedies

By Susan K. Knipps and Greg Berman

Across New York State, a new crop of specialized courts—community courts, drug treatment courts and domestic violence courts—are testing innovative ways to deliver justice. Their objective is to provide more lasting and meaningful resolutions for thousands of difficult cases that pass each year through the courthouses in New York State.

The conditions that have given rise to these new tribunals—often generically called "problem-solving courts"—are not hard to identify. In recent decades, the state courts have increasingly become the public institution of choice for dealing with numerous social problems: drug-fueled crime, family dysfunction, repeated petty assaults against property and social order in urban communities. Not surprisingly, traditional litigation approaches can yield distinctly unsatisfactory outcomes when applied to these non-traditional issues. The signs of systemic failure are all too familiar: drug abusers who cycle through the criminal justice system again and again, batterers who resume their domestic abuse shortly after leaving the courthouse, minor offenders who repeatedly erode the quality of life in distressed urban neighborhoods.

Rather than lamenting that these cases don't fit the mold, problem-solving courts seek to change the mold. By taking a step back, examining the results that courts are actually achieving, and asking, "Isn't there a better way to do this?" the problem-solving courts seek to improve case outcomes for parties and systemic outcomes for the community at large.

An overview of the three types of problem-solving courts currently in operation in New York State follows.

Community Courts

The Unified Court System's first foray into problem-solving jurisprudence was the Midtown Community Court, located on West 54th Street in the heart of Manhattan. Opened in October 1993, the Midtown Court was designed to address the high volume of low-level crime—prostitution, shoplifting, minor drug possession and other petty offenses—that was degrading the quality of life for residents and businesses in midtown Manhattan.

In an overburdened criminal justice system, minor offenses always compete with more serious matters for resources and attention. In New York City, severe caseload pressures meant that nearly half of all misdemeanor cases were resolved without any formal sanction beyond "time served." While such outcomes may be administratively understandable, they can have devastating social side effects. If the justice system is viewed as a revolving door for petty offenders, citizens may see little point to reporting low-level crime, police may view enforcement efforts as futile, and offenders themselves may perceive little downside to repeat offending. Over time, the downward spiral accelerates.

The Midtown initiative set as its goal the development of a court that would respond to low-level crime fairly, visibly, and in a manner that was meaningful to victims, defendants and the community. Rather than just process cases, the Midtown court would use its legal authority to help restore distressed neighborhoods and promote lawful behavior.

Sanctions at the Midtown Court tend to combine punishment and help. Offenders are sentenced to perform public restitution projects—cleaning up local parks, painting over graffiti, sweeping neighborhood streets. In an effort to help solve the problems that often lead to criminal behavior, the Midtown judge may also link offenders to drug treatment, job training, health care and other social services. At many courts, a referral to services is a name on a slip of paper or an appointment with an agency across town. At Midtown, services are offered on-site, just a few floors above the courtroom. On an average day, the court's social service center bustles with defendants participating in GED classes, AA groups and individual counseling sessions.

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The uniqueness of the Midtown model goes beyond what the judge does on the bench. The court has become the hub for an array of programs that address quality-of-life issues in the community—everything from mediation of neighborhood disputes to street outreach programs for the homeless. The court has also pioneered new ways to get citizens involved in the court process, convening advisory boards, town hall meetings and "impact panels" that allow residents to confront offenders in facilitated conversations and bring home the community consequences of petty crime.

The results of the Midtown experiment have been promising. According to independent evaluators at the National Center for State Courts, the Midtown Community Court has helped reduce local crime, improve compliance with alternative sanctions and enhance public confidence in courts.

Results like these have not gone unnoticed. Across the country, more than two dozen replications of Midtown are currently planned or in operation. And closer to home, three new community courts—in Harlem, Hempstead, Long Island and Red Hook, Brooklyn—are in various stages of development, each testing new ways to bring courts and communities closer together.

Drug Treatment Courts

The impact of drugs on the criminal justice system is staggering. Three-quarters of the defendants in urban areas test positive for drugs at the time of arrest. Nearly half of all prison commitments in New York State are for drug offenses. More than half of drug offenders placed on probation or parole recidivate within three years.

Members of the Red Hook Public Safety Corps and community members painted over graffiti on the side of a supermarket in Brooklyn during Red Hook Graffiti Removal Day.

New York's drug treatment courts are a response to these statistics. Modeled on the groundbreaking drug court developed in Dade County, Florida, in the late 1980s, New York's treatment courts offer non-violent, drug-addicted offenders the opportunity to earn dismissal of their charges through completion of a court-ordered program of drug treatment. From a handful of experiments established in the mid-1990s in Brooklyn, Buffalo and Rochester, New York's drug treatment court network has steadily expanded, with more than 30 treatment courts expected to be up and running across the state by the end of next year.

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Unlike traditional courts, the drug treatment courts shift the focus of proceedings from adjudicating past facts to changing future behavior—specifically, to the promotion of defendant sobriety through rigorous judicial monitoring of drug treatment. Treatment court judges play an active role in defendants' recovery process, imposing sanctions when program requirements are violated, dispensing rewards when treatment goals are reached. Because of the reduced emphasis on litigation, many practitioners describe proceedings in these courts as distinctly less adversarial, with the prosecution and defense both working toward the same goal of defendant sobriety.

When that goal is achieved, everybody wins: the community is safer, the defendant has improved life prospects and the justice system has one fewer future recidivist to process. All this, at a fraction of the cost of incarceration. National research has shown that drug court participants have much lower drug use rates, drug court graduates have much lower re-arrest rates, and the long-term savings to the system are substantial.

But the numbers tell only part of the story. New York's drug treatment courts actually change lives. One visit to a treatment court "graduation"—a courtroom ceremony to celebrate defendants' successful completion of treatment—provides a powerful insight into the human dimension of these programs.

Although the assembled graduates may lack caps and gowns, the sense of hard-earned achievement is no different from any other commencement exercise. "I had spent every day stealing for the money to buy drugs, and every free minute getting high," one Rochester graduate recounted at a recent graduation event. "I got caught numerous times, but still I couldn't stop. I had no support system, and no incentive to stop. Drug court finally provided me with both." Or as another graduate put it, "I didn't just get arrested—I got saved."

Domestic Violence Courts

For many years, courts, prosecutors and the police viewed domestic violence as essentially a private matter—a family problem best left to the parties to work out on their own. Today, more and more policymakers agree that domestic violence is a serious public issue—a social problem that requires an immediate and effective response from the criminal justice system.

The urgency of the problem is reflected in the rising volume of domestic violence cases in New York's courts. In New York City alone, more than 25,000 criminal cases alleging domestic violence were filed in 1998. These are complicated cases. By definition, victims and defendants have ongoing relationships, which raises the risk of additional violence. Further complicating matters, many victims—whether because of fear, or love, or economic dependence—may be reluctant to pursue legal remedies, making it difficult for the courts to provide a meaningful intervention.

Given these realities, the New York court system has begun to re-think how it handles cases involving domestic violence. One result of this effort is a growing network of specialized domestic violence courts. There are currently five such courts in New York, with another half dozen in the planning stages. They can be found in urban, suburban and rural jurisdictions. Some are designed to handle only misdemeanor cases, others only felonies, and some handle both.

For all of their diversity, New York's domestic violence courts all follow a common set of principles that were first developed at the Brooklyn Domestic Violence Court in 1996. Key among them is an emphasis on victim safety. Complainants are linked to an on-site victim advocate, who helps them locate needed services such as shelter and counseling. The advocate also serves as a liaison between the court and victims, assuring that complainants are aware of new court dates, court orders and case outcomes—and that the court knows immediately if any further abuse occurs.

Defendant accountability is another key element for promoting victim safety. Domestic violence courts rigorously monitor the behavior of defendants, requiring them to return to court regularly while their cases are pending—whether they are in custody, on probation or released on bail. The goal here is to send the message that the court takes domestic violence seriously and that any violation of a protective order will be dealt with swiftly and decisively.

Victim safety requires more than just the best efforts of the judiciary, however. It also requires the cooperation of outside partners such as the police, probation offices, victims organizations and social service providers. All of these agencies have always played a role in responding to domestic violence, of course, but domestic violence courts affirmatively seek to bring all the pieces of this traditionally fragmented system together, assuring that all stakeholders are working together to offer a coordinated response.

Technology plays an important role in this effort. A state-of-the-art computer application allows New York's domestic violence courts to keep track of the status of each case, minimizing the risk that any matter will tragically "slip between the cracks."

Early signs suggest that the new courts are making a difference. For example, the flagship Brooklyn court has seen dramatically reduced dismissals, warrants and probation violations—common problems that often plague traditional judicial responses to domestic violence. ◆