Volume VII, Issue 2 May 2015

Domestic Violence Review

Office of the State Courts Administrator
Office of Court Improvement

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Helpful Web Resources
Family Courts
DV Benchbook 2014
Petitioner Brochure
Respondent Brochure
DV Civil Injunction Survey Report
DV Resources for Court Staff
DV Case Management Guidelines
Best Practices: Child Support in DV cases
Dating Violence Checklist
Repeat Violence Checklist
Sexual Violence Checklist
Domestic Violence Checklist
Stalking Checklist
DV Assessment Final Report

News from the Office of Court Improvement

2014-15 FJIDV Regional Trainings

The Office of Court Improvement, in conjunction with Judges Carroll Kelly and Peter Ramsberger, are in the process of hosting a series of six regional domestic violence training events throughout Florida. Thus far, successful events have been hosted in Jacksonville, Tallahassee, Miami, Orlando, and Tampa, with a final training in West Palm Beach on May 14-15. These trainings are aimed at providing family court judges throughout Florida with a comprehensive understanding of the basic legal and jurisprudential theories in domestic violence. Judges interested in attending the West Palm Beach event may still register by contacting the Office of Court Improvement, or by visiting the registration page at: http://checkbox.flcourts.org/Domestic-Violence-Regional-Trainings-2014-Registration.aspx.

The Webinar Series

The STOP grant team has been very proud of our recent series of webinars surrounding important topics in the field of domestic violence. The most recent webinar, part two of a two-part webinar special on domestic violence strangulation, was very well-received. The OCI is in the process of making both webinar presentations available on the video and webinar page on the flcourts.org website. If you have any questions regarding webinars, or have a suggestion for future webinar topics, please contact Susan Proctor at proctors@flcourts.org.

The 2014 Florida Judicial Benchbook on Domestic Violence

The updated 2014 Domestic Violence Benchbook is now available electronically at http://www.flcourts.org/core/fileparse.php/273/urlt/ElectronicBenchbook2014O-OAccessibilityOcheckedO1-26-2015.pdf . If you have any questions, please contact Susan Proctor at proctors@flcourts.org.

Upcoming Projects and Events

- The 2015 Domestic Violence Coordinator Meeting The Office of Court Improvement is proud to present the 2015 Domestic Violence Coordinator Meeting, on April 27-28, 2015, in Tampa, Florida. An agenda for the meeting will be made available on the OCI's website soon. If you have been selected by your Trial Court Administrator and are interested in attending, please contact Leslie Russell at Russelll@flcourts.org.

- Florida Judicial Institute on Domestic Violence The website for the Florida Judicial Institute on Domestic Violence is available in a limited BETA format on the Office of Court Improvement's Domestic violence pages. To view the existing content, go to http://www.flcourts.org/resources-and-services/court-improvement/family-courts/domestic-violence/FJIDV/ . If you have any thoughts for additional content or changes, please email Andrew Wentzell at wentzella@flcourts.org.

Caselaw Corner

In re A.B., ___ So.3d ____, 2015 WL 968556 (Fla. 2d DCA 2015) INJUNCTION FOR PROTECTION AGAINST SEXUAL VIOLENCE REVERSED The ex-wife petitioned the court for a domestic violence injunction against the ex-husband. The court ordered an injunction for protection against sexual violence, and the ex-husband appealed, claiming that the court committed reversible error by allowing a video of the victim to be admitted as evidence and that his due process rights were violated when the court failed to allow him to view the video. The appellate court agreed with the ex-husband and reversed, noting that the video-taped interview

was not admissible under section 92.53, Florida Statutes since the court did not conduct the interview itself or appointed a special master. Since the child did not testify at the hearing but was available and there was no corroborative evidence, the video was also not admissible under the statement of a child victim exception to the hearsay rule found in section 90.803(23), Florida Statutes. The court also noted that the father's due process rights were violated since he did not have an opportunity to view the video. March 06, 2015. http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/March/March%2006,%202015/2D14-1020.pdf

Hawxhurst v. State, ___ So.3d ____, 2015 WL 1319800 (Fla. 3d DCA 2015) ARREST RELATED TO VIOLATION OF AN INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE Although primarily a criminal case revolving around a charge of possession of cocaine, the court noted that section 901.15(6), Florida Statutes, authorizes law enforcement to perform an arrest without an warrant when there is probable cause to believe that the person has committed a criminal act which violates an injunction for protection against domestic violence. March 25, 2015. http://www.3dca.flcourts.org/Opinions/3D13-0527.pdf

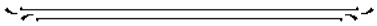
Virtual Court Available for Continuing Education Credits

The Virtual Court program offers Florida domestic violence judges and stakeholders an opportunity to learn about domestic violence proceedings and see the case through the judge's eyes. The program allows the user to act as judge in a domestic violence simulation. The case is fictitious, but the questions are real questions that judges must grapple with every day during an injunction hearing. Learn the laws that guide judges' actions during domestic violence proceedings with our engaging, interactive online program. The program can be accessed at: http://virtualcourt.flcourts.org.

The Virtual Court program is approved for up to 1.50 non-conference Domestic Violence CJE credit hours. Judges may apply for Continuing Judicial Education (CJE) credit by emailing a request to CJEMail@flcourts.org or writing to: Court Education Division, Office of the State Courts Administrator, 500 South Duval Street, Tallahassee, Florida 32399-1900 (Attention: CJE Credit). Judges who have completed the program but have not yet requested a certificate of completion may do so by sending an email request to vcsupport@flcourts.org.

The Florida Bar has approved 2.00 hours of general Continuing Legal Education (CLE) credit (including 1.50 hours of Marital and Family Law Certification credit) for the completion of this training module. Individuals are required to post their CLE activity on the Florida Bar website, www.floridabar.org, to receive credit. Please refer to course #1300185N.

Completion of the Domestic Violence Virtual Court training module can count as 2.0 hours of Domestic Violence Continuing Mediator Education (CME) credit. Individuals are required to keep the information pertaining to the completed virtual court course during the two-year cycle. Individuals will then report the information on the CME Reporting Form included in the renewal packet at the time of renewal, not when the credit is earned. The CME Reporting Form is also available on the Dispute Resolution Center's website.



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TECHNICAL ASSISTANCE BULLETIN

Reasonable Efforts in Child Abuse and Neglect Cases that Involve Domestic Violence

NCJFCJ
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NATIONAL COUNCIL OF
JUVENILE AND FAMILY COURT JUDGES
WWW.NCJFCJ.ORG

The National Council of Juvenile and Family Court Judges® (NCJFCJ), headquartered on the University of Nevada, Reno campus since 1969, provides cutting-edge training, wide-ranging technical assistance, and research to help the nation's courts, judges, and staff in their important work. Since its founding in 1937 by a group of judges dedicated to improving the effectiveness of the nation's juvenile courts, the NCJFCJ has pursued a mission to improve courts and systems practice and raise awareness of the core issues that touch the lives of many of our nation's children and families.

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Introduction

Researchers and professionals in the field have known for years that domestic violence and child maltreatment often co-occur in families. The extent to which this happens is hard to estimate, with early studies indicating overlaps ranging from 30% to 60%.[1] National datasets that collect information on child abuse and neglect, such as the Adoption and Foster Care Reporting System (AFCARS), do not identify the occurrence of domestic violence, making it difficult to track. Further, courts may overlook domestic violence if it is not listed on the original petition in a dependency case.

Domestic violence is a pattern of assaultive and coercive behavior that may operate on a physical, psychological, emotional, sexual, or economic level.

When domestic violence is identified in a dependency case, either as part of petition allegations against a parent or at a later point in the case, it is important that judges respond in a way that holds the perpetrator of the violence accountable, keeps the victim and children safe, and helps to prevent future violence. Children exposed to domestic violence are at risk for a host of negative social, developmental, and psychological outcomes. For example, research has linked childhood exposure to domestic violence to a reduction in IQ scores,[2] increased likelihood of juvenile delinquency,[3] and decreased social competence.[4] In addition, children who witness domestic violence are significantly more likely to develop depression, anxiety, and Post-Traumatic Stress Disorder (PTSD) than non-witnesses.[5]

In light of these realities, the federal government has responded to the co-occurrence of domestic violence and child maltreatment in two important ways. In December 2010, President Obama reauthorized the Child Abuse Prevention and Treatment Act (CAPTA), which requires the U.S. Department of Health and Human Services to collect and disseminate information on the co-occurrence of domestic violence and child maltreatment through research, training, technical assistance, and the development of an information clearinghouse.[6] It instructs child protective services (CPS) to promote family member input in agency decision-making, increase collaboration between domestic violence and child welfare agencies, and decrease the use of victim-blaming responses to reports of child maltreatment involving domestic violence.[7] To further these goals, CAPTA authorizes discretionary grants to promote and support programs that increase collaboration and to fund community-based prevention services, including domestic violence services.[8] In 2013, Congress reauthorized the Violence Against Women Act of 1994 (VAWA), which included a provision granting funding to train judges, court staff, and CPS workers on domestic violence issues.[9]

The National Council of Juvenile and Family Court Judges (NCJFCJ) also recognized the challenges inherent to the intersection of child maltreatment and domestic violence. In 1999, the NCJFCJ

1 Osofsky, J. D. (2003). Prevalence of children's exposure to domestic violence and child maltreatment: Implications for prevention and intervention. *Clinical Child and Family Psychology Review*, 6, 161-170.

2 Koenen, K. C., Moffitt, T. E., Caspi, A., Taylor, A., & Purcell, S. (2003). Domestic violence is associated with environmental suppression of IQ in young children. *Development and Psychopathology*, 15, 297-311.

3 Justice Policy Institute (2010, July). *Healing invisible wounds: Why investing in trauma-informed care for children makes sense*. Retrieved from http://www.justicepolicy.org/images/upload/10-07_REP_HealingInvisibleWounds_JJ-PS.pdf

4 Kernic, M. A., Wolf, M. E., Holt, V. L., McKnight, B., Huebner, C. E., & Rivara, F. P. (2003). Behavioral problems among children whose mothers are abused by an intimate partner. *Child Abuse and Neglect*, 22, 319-330.

5 Margolin, G., & Vickerman, K. A. (2007). Post-traumatic stress in children and adolescents exposed to family violence : I. Overview and issues. *Professional Psychology: Research and Practice*, 38, 613-619.

6 CAPTA Reauthorization Act of 2010, Public Law (P.L.) 111-320, §§ 103-105 & 110.

7 CAPTA Reauthorization Act of 2010, Public Law (P.L.) 111-320, §§ 106 & 201-206.

8 CAPTA Reauthorization Act of 2010, Public Law (P.L.) 111-320, §§ 112 & 201-210.

9 U.S. Department of Justice (2013). *Office on Violence Against Women (OVW) VAWA 2013 summary: Changes to OVW-administered grant programs*. Retrieved from http://www.ovw.usdoj.gov/docs/vawa-2013-sum.pdf.

published Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice (otherwise known as the Greenbook).[10] The Greenbook provides a guiding framework for communities faced with the co-occurrence of domestic violence and child maltreatment. Subsequently, the NCJFCJ developed the Reasonable Efforts Checklist for Dependency Cases Involving Domestic Violence[11] (hereinafter "Reasonable Efforts Checklist") to assist dependency court judges making reasonable efforts determinations in cases involving domestic violence.[12] The Reasonable Efforts Checklist provides a contextual background for dependency cases involving domestic violence, a legal framework for reasonable efforts findings, and a list of appropriate services for cases involving domestic violence. In addition, the Reasonable Efforts Checklist contains bench cards to guide judges in making reasonable efforts rulings. Finally, NCFJCJ created the Checklist to Promote Perpetrator Accountability in Dependency Cases Involving Domestic Violence.[13] This checklist serves as a supplement to the Reasonable Efforts Checklist and guides judges tasked with holding perpetrators accountable for domestic violence.

Following the dissemination of these publications, the NCJFCJ sought to determine how courts are actually handling cases involving child maltreatment and domestic violence. To better understand court practice, the research team at the NCJFCJ conducted a standardized case file review of three judicial districts in Oregon, Nevada, and West Virginia. The results of this study are discussed in the section below entitled "Research Related to Reasonable Efforts in Domestic Violence Cases." The NCJFCJ also hosted a reasonable efforts mini-conference in Reno, NV, in June 2013, attended by stakeholders in various disciplines from ten separate regions. At the end of the conference, community teams developed action plans for incorporating the Reasonable Efforts Checklist into systems practice. A number of common themes emerged from these action plans, which are discussed in the section entitled "Themes from Domestic Violence Action Plans." The research data and community action plans, taken together, provide a framework for how courts are currently handling dependency cases involving domestic violence. It is with these practices in mind that the Technical Assistance Bulletin finishes with a "Recommendations" section identifying best practices for courts dealing with the co-occurrence of domestic violence and child maltreatment.

Research related to Reasonable Efforts in Domestic Violence Cases

To obtain an initial understanding of how dependency cases with co-occurring domestic violence are treated compared to dependency cases with no indications of domestic violence, NCJFCJ staff conducted on-site case file reviews of three jurisdictions in different U.S. regions. Using a standardized case file review instrument modified for the purposes of this study, researchers documented court and agency responses to dependency cases with and without co-occurring domestic violence at multiple points throughout the case. Policy, practice, and resource availability can vary dramatically across jurisdictions. Thus, many findings summarized here focus on identifying notable trends, differences, and challenges observed across jurisdictions rather than on aggregate level assessments that combine

[10] Schechter, S. & Edleson, J. (1999). *Effective intervention in domestic violence & child maltreatment cases: Guidelines for policy and practice*. Reno, NV: National Council of Juvenile and Family Court Judges. Retrieved from thegreenbook.info/documents/Greenbook.pdf.

[11] Goodmark, L. (2008). *Reasonable efforts checklist for dependency cases involving domestic violence*. Reno, NV: National Council of Juvenile and Family Court Judges. Retrieved from http://www.ncjfcj.org/resource-library/publications/reasonable-efforts-checklist-dependency-cases-involving-domestic

[12] The Adoption Assistance and Child Welfare Act of 1980 (AACWA) requires courts to determine whether child welfare agencies make reasonable efforts to prevent the removal of children from their homes and, if children are removed, to reunify them with their parents. The Adoption and Safe Families Act of 1997 clarifies this requirement by asking courts to focus on the health and safety of children while making reasonable efforts determinations and sets forth limited aggravated circumstances in which agencies are excused from making reasonable efforts findings. A detailed description of these provisions can be found in the *Reasonable Efforts Checklist*.

[13] National Council of Juvenile and Family Court Judges (2011) *Checklist to promote perpetrator accountability in dependency cases involving domestic violence*. Retrieved from http://www.ncjfcj.org/sites/default/files/checklist-to-promote-accountability_0.pdf.

and report cross-site data as a whole.[14]

Case Samples

The NCJFCJ researchers intended to randomly select an equal number of dependency cases with petitions filed in 2010 at each site from two categories: those that included allegations of domestic violence and those with no indications of domestic violence. In some sites, however, the number of domestic violence cases did not reach half of the non-domestic violence cases due to variations in jurisdiction size and resources. In these sites, researchers instead sampled all domestic violence cases and a random sample of non-domestic violence cases. Researchers examined a total of 212 cases across all three sites; 46% (n = 98) of these cases involved allegations of domestic violence. Table 1 displays the number of domestic violence and non-domestic violence cases sampled from each site.

Table 1. Number of Cases Sampled by Site

Location	Domestic Violence Cases	Non-Domestic Violence Cases	Total
Site 1	49	47	**97**
Site 2	29	37	**65**
Site 3	20	30	**50**

Summary of Results

Case Demographics

In the entire case sample (i.e., including cases with and without domestic violence) across sites, the children's ages on the petition ranged from 1 day to 7 years, with an average age of 5 years. Information regarding the child's ethnicity was only available from Site 2, where data revealed no link between domestic violence and ethnicity. Social services or law enforcement removed children from their homes in over 85% of all cases. There was no difference in the likelihood of removal between cases involving domestic violence and non-domestic violence cases.

In Sites 1 and 2, CPS opened over 90% of cases in the mother's name. Automatically opening the cases in the mother's name regardless of which party the allegations are against is a common practice in many jurisdictions across the U.S. In Site 3, however, CPS opened over one-third (34%) of cases in the father's name. Fathers in domestic violence cases were more likely to have the case opened in their name than fathers in cases that did not involve domestic violence. Site 3 is also unique because state law permits CPS and the non-offending parent to co-petition against the domestic violence perpetrator. In four cases, CPS and the mother co-petitioned; mothers joined CPS in filing co-petitions in two domestic violence cases and two non-domestic violence cases.

Allegations

The average number of petition allegations in the entire case sample was 2.9 for mothers and 2.1 for fathers. The most common allegation was neglect/abandonment followed by a general "other/risk of harm" category. In all three sites, the number of allegations against the father was significantly higher in domestic violence cases than in non-domestic violence cases. The number of allegations against the mother did not differ between domestic violence and non-domestic violence cases in Sites 1 and 2. In site 3, however, the number of allegations against mothers in domestic violence cases was

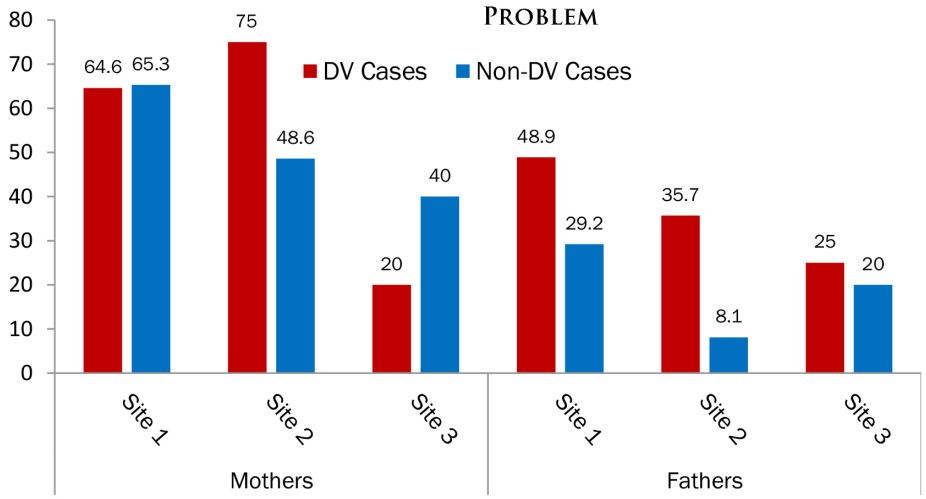
[14] Please email the NCJFCJ Research Team at research@ncjfcj.org to obtain more detailed results for each site.

significantly[15] lower than the number of allegations against mothers in non-domestic violence cases.

Presenting Problems

Juvenile dependency petitions typically identify "presenting problems" related to the formal allegations. In the entire sample of cases, substance abuse was the most common presenting problem for both mothers and fathers. Figure 1 displays the percentage of domestic violence and non-domestic violence cases in which substance abuse was identified as a problem for mothers and fathers for each site, Figure 2 illustrates the aggregate difference in substance abuse allegations across sites, and Figure 3 displays the frequency of presenting problems aggregated across all three sites.

Figure 1. Frequency of Substance Abuse as a Presenting Problem



In Site 2, mothers in domestic violence cases were significantly more likely to have substance abuse issues noted than mothers in non-domestic violence cases. The opposite pattern occurred in Site 3, where mothers in non-domestic violence cases were more likely than those in domestic violence cases to have substance abuse issues noted. This discrepancy may be due to jurisdictional practices. In Site 3, petitions typically only listed one presenting problem that was most related to the formal allegations. Thus, Site 3 data may yield a less accurate representation of the actual incidence of substance abuse among parents than data obtained from the other sites.

As shown in Figure 1, substance abuse as a presenting problem was higher for fathers in domestic violence cases than for fathers in non-domestic violence cases in all three sites. The difference was minimal in Site 3 but significant in Sites 1 and 2.

There were minimal or no differences in the frequency of other presenting problems noted on the petition in domestic violence and non-domestic violence cases. Overall, fathers in domestic violence cases were more likely to be incarcerated than fathers in non-domestic violence cases (see Figure 3), which would be expected among those who were perpetrators.

[15] The term "significant" refers to statistical significance when used throughout this results summary. When groups are reported to "significantly" differ, this means that researchers conducted statistical analysis and results indicated that groups differed to an extent greater than would be expected by chance. When analyzing data by site, however, sample sizes were often too small to conduct valid statistical tests. In these instances, researchers made comparisons between domestic violence and non-domestic violence cases by examining basic frequency data.

Figure 2. Frequency of Substance Abuse as a Presenting Problem

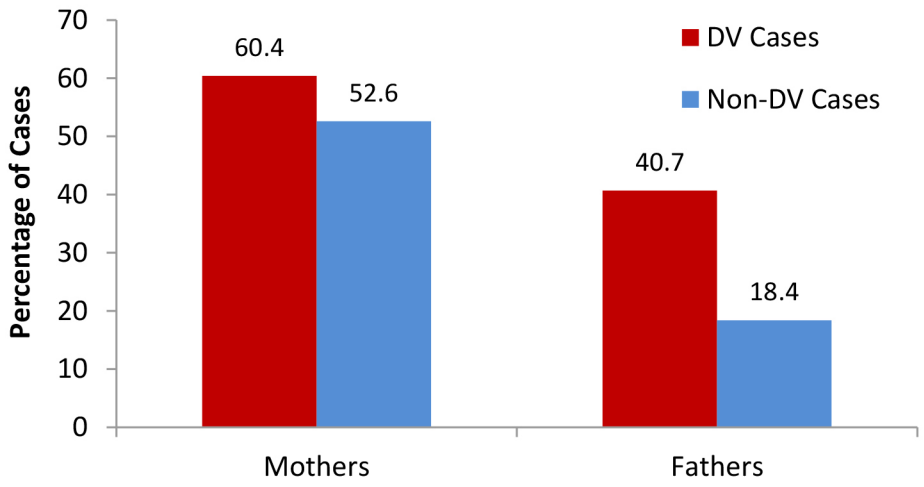
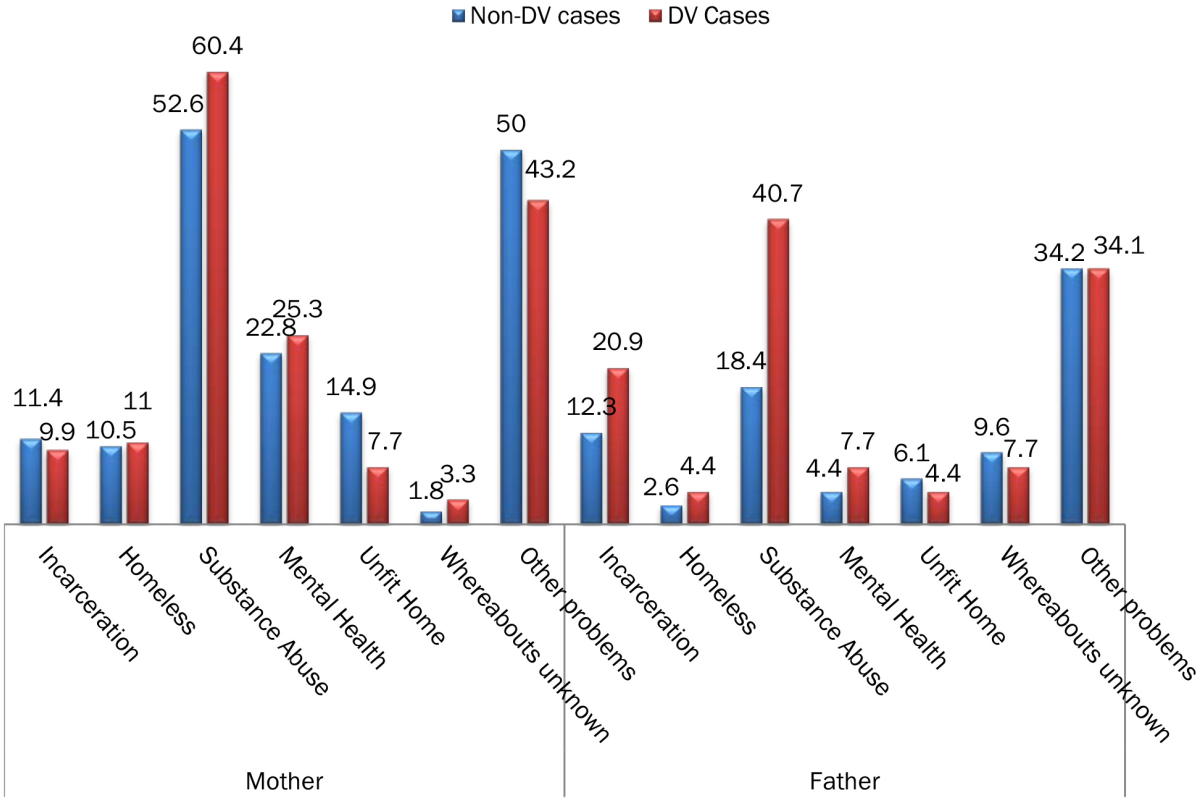


Figure 3. Percentage of Problems listed on Petition for Mothers and Fathers by Case Type

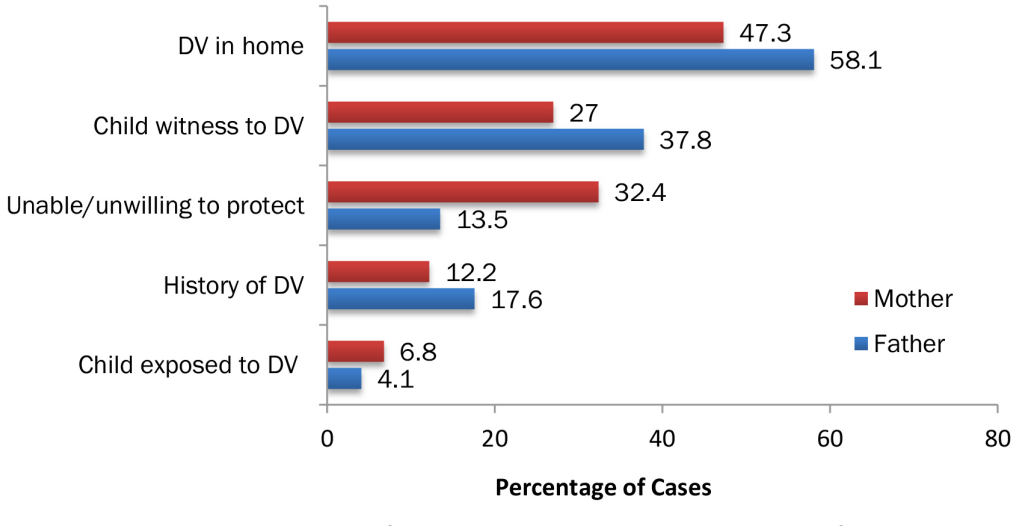


Note: "Other problems" refers to a wide variety less common problems (e.g., whereabouts unknown, prior TPR, medical issues). The frequencies with which each type of "other" problem occurred were not large enough to form any meaningful categories for comparisons between domestic violence and non-domestic violence cases.

Characteristics of Cases Involving Domestic Violence

The samples of domestic violence cases were further examined to obtain a better understanding of domestic violence related allegations, the frequency with which victims and perpetrators were identified in the petition, and the involvement of domestic violence advocates. Importantly, in over one-third (36%) of domestic violence cases in Site 2, there was no indication of domestic violence on the petition. Rather, domestic violence issues emerged later on in the case, most commonly at the Disposition hearing. This also occurred in 15% of the domestic violence cases in Site 3.[16] There was not enough information in the case files to determine precisely how or why domestic violence was discovered later. Perhaps continued domestic violence screenings and/or assessments conducted by child welfare agencies or other professionals led to identification of domestic violence in some of these cases. However, there are other possible means through which domestic violence may have emerged as an issue as a case progressed (e.g., new information provided by victims or children, recent occurrence of a domestic dispute, law enforcement involvement).

Figure 4. Parent Allegations Specific to Domestic Violence Cases



Note: Percentages are based on the total number of cases in which domestic violence was identified on the petition. "Child exposed to domestic violence" refers to situations in which a child did not directly witness acts of domestic violence but were exposed in other ways (e.g., hearing an altercation, seeing parents' injuries, etc.). Petitions must specifically use the term "exposed" for this to be recorded as an allegation.

Among cases across sites in which domestic violence was documented on the petition, the petition identified the perpetrator(s) 75% of the time and the victim(s) 74% of the time. In over 90% of these cases, the father was identified as a perpetrator and the mother was identified as a victim. Though mothers were almost always victims, petitions often included domestic violence related allegations against them. Figure 4 displays the average percentages of domestic violence cases including domestic violence-related allegations against both mothers and fathers.

The entire sample of domestic violence cases revealed only one recorded appearance of a domestic

[16] There was not enough information to examine emergence of domestic violence later in the case for Site 1.

violence advocate at a hearing. In one other case, there was evidence that a domestic violence advocate was otherwise involved (i.e., did not attend hearings, but assisted in other ways). It is possible that domestic violence advocates were present at hearings in additional cases but were not identified in the court record or case files.

Reasonable Efforts and Services

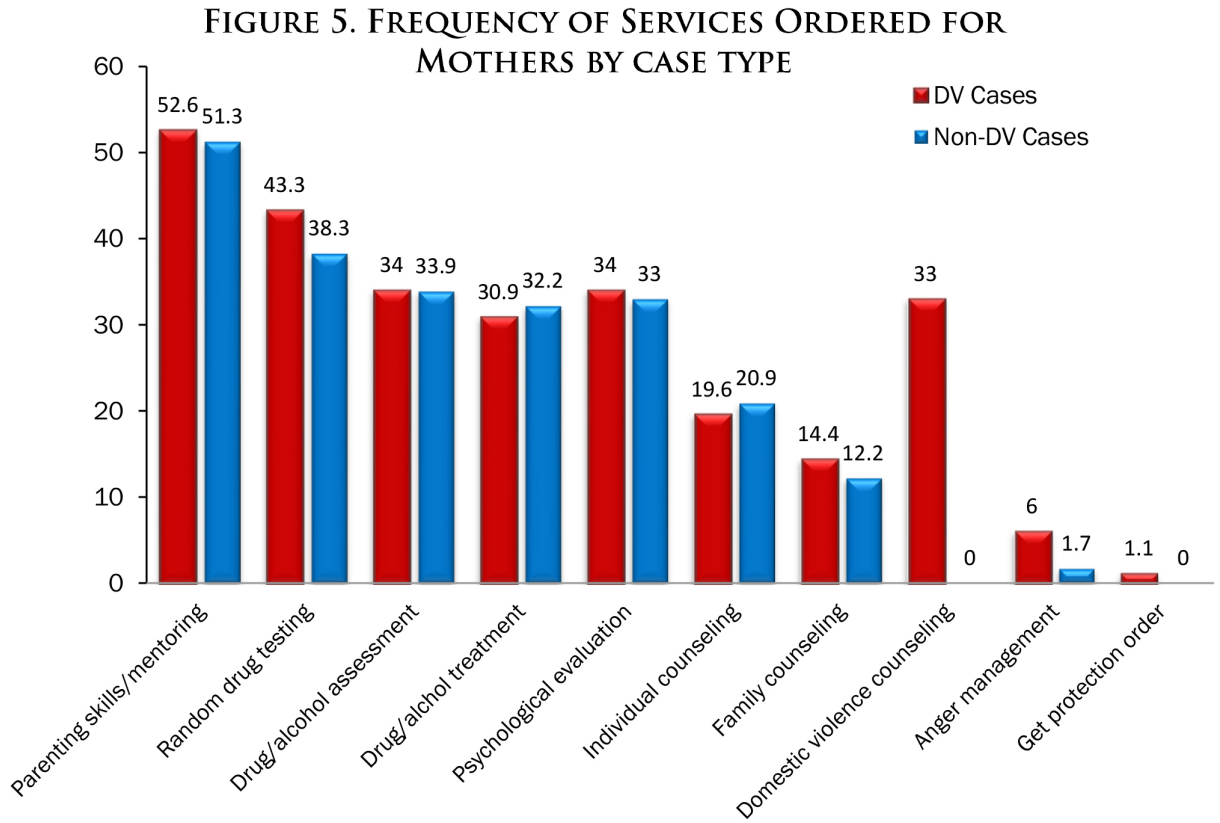
Findings that reasonable efforts were made to prevent removal and reunify were made and documented in the majority of cases regardless of whether the case involved domestic violence. One difference with respect to reasonable efforts emerged in Site 2, where findings that reasonable efforts were not required were significantly more common in cases that did not involve domestic violence (43%) than in domestic violence cases (14%). This suggests that the cases that did not involve domestic violence may have been more urgent than the cases involving domestic violence, thus necessitating emergency removals. Notably, none of the judges in any of the cases (neither those that involved domestic violence nor those that did not) ever found that the agencies failed to make reasonable efforts.

An examination of specific agency efforts made to prevent removal and reunify revealed no differences between cases involving domestic violence in any of the three sites. There was also minimal evidence of agency efforts to address domestic violence related issues. For example, in all three sites, agency efforts to help victims find a place to stay, help victims obtain a protective order, enlist the support of the community, and refer the victim to a domestic violence advocate were present in less than 5% of domestic violence cases. In Site 1, agencies referred the perpetrator to batterer intervention in 10% of domestic violence cases; this occurred in less than 2% of domestic violence cases in Sites 2 and 3. It is possible that agencies provided additional services without documenting those efforts in the case files

The data did reveal some differences in service orders for mothers and fathers depending on whether the case included allegations of domestic violence. In Site 2, mothers in domestic violence cases were more likely to be ordered to submit to random drug screenings (61%) than mothers in non-domestic violence cases (41%). In addition, courts ordered 46% of mothers in domestic violence cases to undergo a substance abuse assessment, compared to 35% of mothers in non- domestic violence cases. In Site 3, the opposite pattern occurred: mothers in cases that did not involve domestic violence were more likely to receive orders for random drug testing (30%) and substance abuse treatment (16%) than mothers in domestic violence cases (15% random drug testing; 1% substance abuse treatment). These differences in service orders correspond with the problems presented on the petition. As illustrated in Figure 1, substance abuse was more frequently identified as a presenting problem for mothers in domestic violence cases in Site 1, but was less frequently identified as a presenting problem for mothers in domestic violence cases in Site 3 (compared to mothers in non-domestic violence cases).

Mothers in domestic violence cases often received orders to complete domestic violence counseling (41% in Site 1 and 46% in Site 2).[17] There were no other differences in service orders for mothers in domestic violence cases across sites. The total frequencies of service orders for mothers in domestic violence and non-domestic violence cases aggregated across sites are displayed in Figure 5 on the following page.

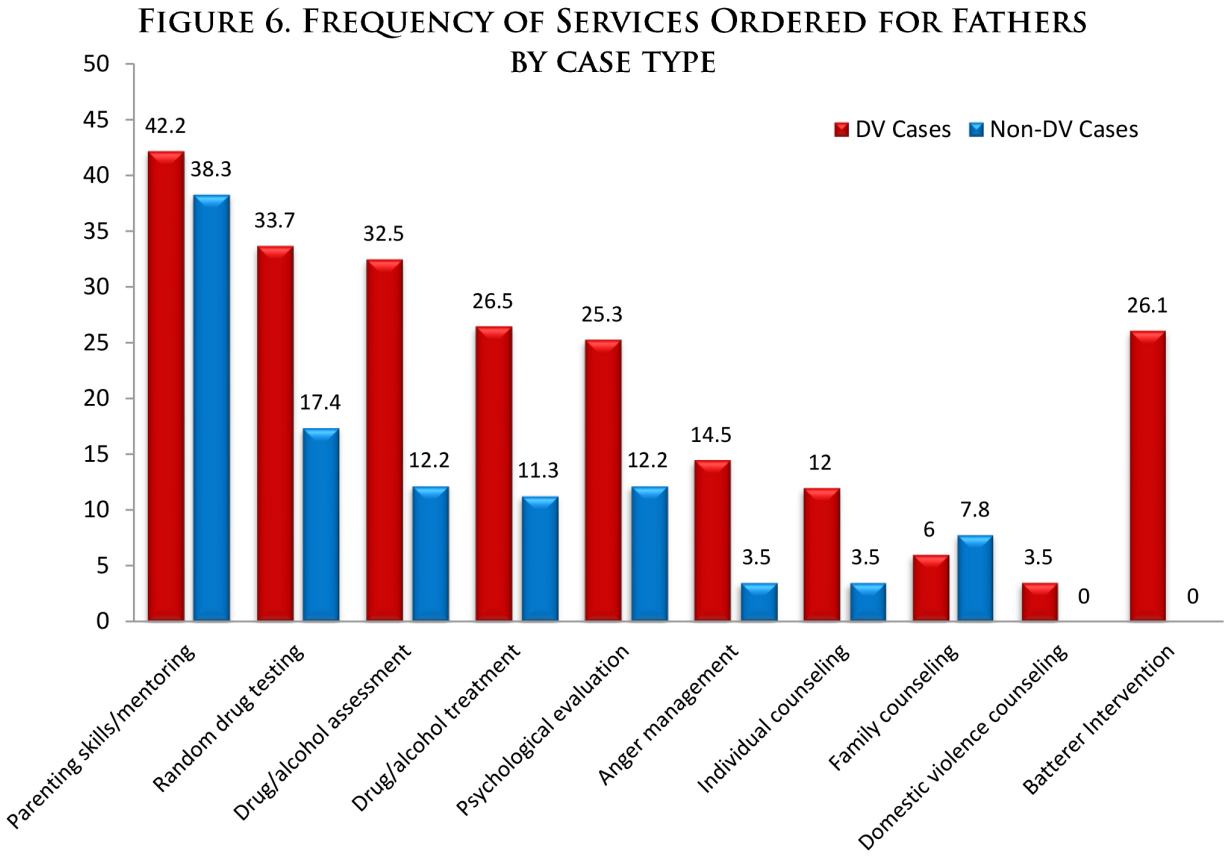
[17] Site 3 is a more rural jurisdiction than Sites 1 and 2. Though Site 3 judges and other stakeholders recognize the importance of addressing domestic violence-related issues in dependency cases, this jurisdiction in particular faces challenges related to lack of resources and funding for domestic violence-related services.



Comparisons of service orders for fathers were conducted using the entire sample of non-domestic violence cases and domestic violence cases in which the father was identified as a perpetrator; domestic violence cases in which the father was not identified as a perpetrator were excluded. In Sites 1 and 2, fathers in domestic violence cases (who were identified as perpetrators) were significantly more likely to receive orders for random drug testing (39% in Site 1, 33% in Site 2) than fathers in non-domestic violence cases (17% in Site 1, 19% in Site 2). In Site 1, 33% of fathers in domestic violence cases were ordered to substance abuse treatment, compared to 17% of fathers in non-domestic violence cases. In Site 2, 33% of fathers in domestic violence cases were ordered to complete substance abuse assessments, compared to 11% of fathers in non-domestic violence cases. These service orders align with the increased identification of substance abuse as a presenting problem among fathers in domestic violence cases in Sites 1 and 2.[18]

Less than half of fathers in domestic violence cases who were identified as a perpetrator received orders to complete a Batter Intervention program in both Site 1 (35%) and Site 2 (49%). No local Batterer Intervention programs are currently available in Site 3, but a larger proportion of Site 3 father received orders for psychological evaluations in domestic violence cases (33%) than in non-domestic violence cases (10%). The total frequencies of service orders for fathers in domestic violence and non-domestic violence cases aggregated across sites are displayed in Figure 6 on the following page.

[18] These results are consistent with larger studies linking domestic violence and substance abuse. For a detailed description of existing research on the subject, see the *Reasonable Efforts Checklist* .

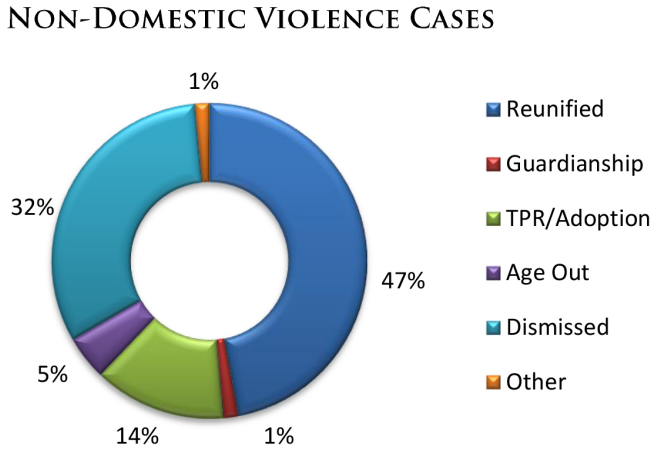


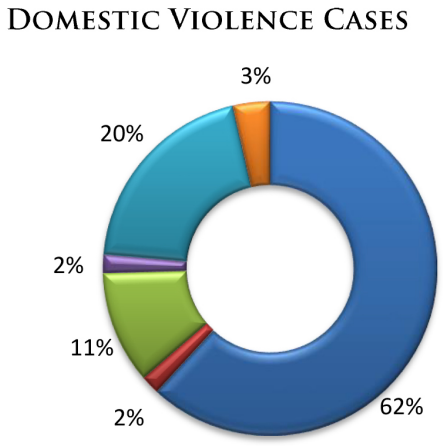
Case Timeliness, Placement, and Outcomes

Cases involving domestic violence did not differ from cases that did not involve domestic violence in terms of case timeliness, number of youth placements, or types of youth placements (e.g., parent, relative, foster care). Most notably, children in domestic violence cases were not returned to the non-offending parent any earlier than children in other cases.

Over half (57.5%) of all cases examined were closed, and there was no difference in the likelihood of case closure in domestic violence cases. Examinations of site-specific data revealed no substantial differences in case outcomes, though the percentage of cases ending in reunification was slightly higher in the domestic violence samples. These slight differences across sites yielded a larger difference when researchers combined site data such that 64% of closed domestic violence cases ended in reunification, compared to 47% of closed cases that did not involve domestic violence. See Figure 7, on the following page, for all case outcomes by case type.

Figure 7. Case Outcomes for domestic violence and non- domestic violence Cases





Overall Assessments

In examining domestic violence case files, researchers made global assessments regarding whether the system held the perpetrator accountable and whether there was a focus on keeping the child safe with the non-abusing parent. Figures 8 and 9 display results combined across sites. For several cases across sites, there was not enough information in the case files to make these assessments. This lack of information accounts for the relatively large percentages in the "undetermined" category.

Figure 8.Focus on victim and child safe and together?

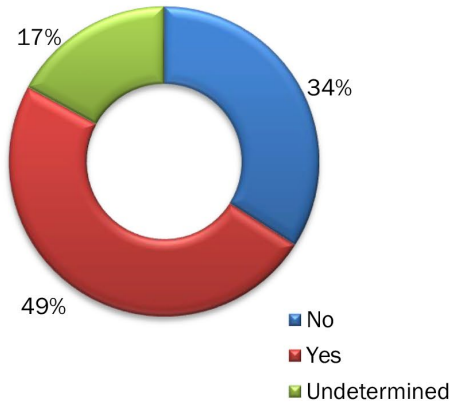
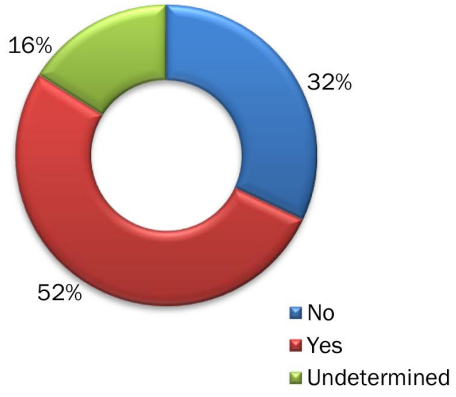


Figure 9. Perpetrator held accountable by system?



Themes from Domestic Violence Action Plans

The NCJFCJ held a Reasonable Efforts in Dependency Cases Involving Domestic Violence Mini-Conference (hereinafter "mini-conference") in Reno, Nevada in June 2013. The mini-conference convened a range of participants from 10 different regions and various disciplines. Participants included tribal court representatives, social services representatives, judges from different jurisdictions, crime victim advocates, domestic violence advocates, guardians ad litem, Court Appointed Special Advocates (CASAs), children's attorneys, policy analysts, youth program coordinators, public defenders,

and prosecutors. During the mini-conference, participants attended expert presentations, received trainings, and engaged in interactive exercises designed to improve their knowledge and decision-making regarding dependency cases with co-occurring domestic violence. As a main component of the conference, the 10 regions created action plans to address domestic violence in child abuse and neglect cases in their respective regions. A number of common themes arose.

Common Activity and Project Themes

Each group began the action planning process by identifying activities or projects they felt would best suit their needs and regions. The groups identified common projects and activities which were placed into four categories, including (1) training and education; (2) court-ordered services; (3) collaboration; and (4) screening tools, data collection, and research.

Training and Education

The most common category identified was training needs and educational opportunities. Participants stressed the need to train all stakeholders in the system, including agency attorneys, social workers, judges, guardians ad litem, parent's attorneys, and child advocates. They also identified new caseworkers at CPS as individuals that could benefit from domestic violence training and instruction on how to properly address domestic violence with service and case plans.

Participants generated ideas for how to implement effective training, such as offering continuing legal education (CLE) credits to attorneys and judges, incorporating domestic violence training into judges' retreats, and developing web-based trainings on specific domestic violence topics. The groups also identified the need for training on trauma symptoms and behavioral changes in victims. Finally, the teams indicated that a training needs assessment (TNA) would be helpful prior to the development of a formal training plan. A properly constructed TNA ensures that the training materials provided are well informed and build necessary skills.

Court-Ordered Services

The second category for improvement involved the need for court-ordered services for parents and children that specifically address the unique characteristics of dependency cases involving domestic violence. The action plans specifically listed potential court ordered services, including Batterer Intervention programs and domestic violence counseling. They also identified the importance of child support and protection orders. Since victims sometimes choose to remain in abusive relationships due to a lack of financial resources, child support orders may provide victims with much needed financial support and empower them to keep their children safe. Protection orders can also serve to increase safety for victims, children, and pets. The NCJFCJ recommended services can be found in the Greenbook and the Reasonable Efforts Checklist.

Court-Ordered Services

- Batterer's Intervention Program
- Counseling
- Child Support
- Protection Orders

Collaboration

Cases involving domestic violence require strong collaboration between those in the dependency system and those working with victims of domestic violence. The groups involved in action planning stressed that stakeholders within each of these systems must come together to better serve families. The groups noted that collaboration would increase if domestic violence advocates were involved in agency decision-making and invited to meetings with child protective services. One group suggested using the NCJFCJ's Reasonable Efforts Checklist in all cases to help guide conversations between

judges, attorneys, and other important stakeholders. The groups identified focus groups, surveys, and meetings as important first steps toward collaborative conversations.

Screening, Data Collection, and Research

The action planning teams also identified the need for effective tools to screen for domestic violence. To ensure that the tools used by the jurisdictions are useful, the teams identified the need to evaluate existing screening tools. They also identified the need for proper training on the use of screening tools for all professionals tasked with their use.

Finally, the teams identified data collection and reporting as necessary components of any program. Tracking domestic violence helps courts identify and evaluate areas that may need improvement. Data collection also helps courts track the intended outcomes of specific projects and activities. One group sought to conduct a feasibility study of domestic violence assessment tools and Batterer Intervention programs.

Intended Outcomes

After the action planning groups listed their proposed projects and activities, the NCJFCJ asked them to identify the intended project outcomes. As with other components of the action planning session, the NCJFCJ analyzed the intended outcomes for common themes, which included the following:

- Increase the availability of family support and counseling services in the community
- Improve the quality and consistency of case plans in domestic violence cases
- Improve the referral process to domestic violence advocates
- Initiate strategic planning and reporting on progress towards identified goals
- Increase the knowledge of safe options and alternatives to foster care
- Decrease the time to permanency for children
- Increase reunification rates
- Identify and mitigate system barriers
- Increase the quality of information provided to judges to ensure quality decision-making
- Improve intake with questions that identify safe alternatives to foster care
- Reduce the number of children in care as a result of domestic violence
- Improve stakeholders' knowledge of available services and agency roles and responsibilities
- Improve access to offender services to decrease the rates of repeat domestic violence
- Improve domestic violence screening tools, including a better understanding of how they work
- Improve the ability to recognize behavioral signs of domestic violence
- Review policies to ensure that victims have positive experiences with social services
- Improve case-worker responses to domestic violence
- Create materials for in-house training and cross-training
- Improve data collection, information sharing, and reporting

Collaborative Partners

Collaborative partners are critical to the implementation of any activity or project. Accordingly, the NCJFCJ asked mini-conference participants to identify potential partners, both within and outside of the child welfare system. The groups identified a number of potential partners within the dependency system, including CPS, family courts and judges, foster care agencies, attorneys (prosecutors, parents' attorneys, children's attorneys), and children's advocates (guardian ad litem and CASA). They also identified partners in the domestic violence network, such as counselors, domestic violence advocates, domestic violence support groups, domestic violence shelters, the family violence prevention project,

law enforcement, and batterer's intervention providers. Institutional systems, community organizations, and national resource centers represented a third category of potential partners, which included welfare, Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TNAF), church groups, Court Improvement Program (CIP), YMCA, county resources, Women's Club, and the NCJFCJ. Finally, the groups identified extended family members and domestic violence survivors with CPS involvement as potential collaborative partners.

Data Sources

In conclusion, the teams were asked how they would assess and evaluate their proposed projects. The groups identified data sources from which to collect both primary and secondary data. Primary data sources included: case file reviews, court data, training and periodic reports, survey results regarding learning acquisition, behavior and attitude changes, random sampling of CPS data to examine domestic violence advocate involvement, needs assessment, and data regarding the use of bench cards. Secondary data sources included: counselor reports, home visitation reports, family observation reports, police reports, case plans, Social Services and CPS data, and Batterer Intervention program attendance.

Recommendations

Although it is undisputed that domestic violence and child maltreatment often coexist in families, courts and child welfare agencies have been slow to change their response to dependency cases involving domestic violence. This delayed reform may be attributed to a number of factors, including the limited interaction between domestic violence advocates and the child welfare system, limited resources, improper training, confidentiality concerns, misconceptions about the dynamics of domestic violence, and lack of data on effective interventions, to name a few. Whatever the reason, communities still struggle with keeping victims and their children safe, allowing children to remain in their homes with the non-abusing parent, and holding batterers accountable for the abuse.

The results of the present study are illustrative. Some positive changes appeared in the three sites studied. These included: fewer findings per petition against victims of domestic violence in one site; higher reunification rates for cases involving domestic violence in all three sites; and one site's implementation of policies allowing victims to co-petition against batterers and permitting agencies to file petitions in the name of the father. Despite these advancements, the NCJFCJ researchers nevertheless concluded that at least one third of the cases failed to hold batterers accountable or to keep children safe and with the non-abusing parent.

Best Practices

- Screen for domestic violence throughout the life of the case
- Participate in and facilitate ongoing training on co-occurrence issues
- Include the family in decision-making and support the role of the non-abusing parent
- Hold batterers accountable
- Use reasonable efforts findings to hold agencies accountable
- Promote community collaboration
- Collect, manage, and measure performance data

In the three sites studied, domestic violence is overlooked in the petition in a significant percentage of cases. In those cases that do identify domestic violence at the onset, removal rates remain steady whether or not domestic violence is present. At the time of removal, findings related to domestic abuse are substantiated against both perpetrators and victims. After the children are taken into custody, referrals to domestic violence advocates and agency efforts to help victims find a safe place to stay, obtain a protective order, and enlist the support of the community were

documented in less than 5% of cases involving domestic violence. There was evidence that the agency referred the perpetrator to Batterer Intervention programs in only 10% of the case files in one site and in less than 2% of the case files in the other two sites; judges ordered perpetrators to complete Batterer Intervention programs in 26% of the domestic violence cases in the overall sample. None of the courts found that the agency failed to make reasonable efforts to reunify or prevent removal in any of the cases reviewed despite little indication of agency efforts specific to addressing domestic violence in the case files.

Fortunately, communities are beginning to take steps to improve their response to the co-occurrence of domestic violence and child maltreatment. Ten communities attended the NCJFCJ mini-conference to learn about the co-occurrence of domestic violence and child maltreatment. Following the mini-conference, planning groups were able to identify the significant challenges inherent to dependency cases involving domestic violence. They were also able to identify a number of common themes and areas upon which to improve, including the need for training and education, proper identification of domestic violence and use of court-ordered services, collaboration between stakeholders, and ongoing data collection and research. Each of these areas represents an essential element of a comprehensive community response to the co-occurrence of domestic violence and child maltreatment. It is with these themes in mind that we recommend the following "best practices" for dependency cases involving domestic violence.

Screen for domestic violence throughout the life of the case

As the data indicate, the dependency system often overlooks domestic violence at the onset of a case. The U.S. Department of Health and Human Services (HHS) recommends that child protection agencies screen for domestic violence on "every child abuse and neglect report received by the agency."[19] Both HHS and the NCJFCJ recommend that domestic violence screening continue throughout the life of a case: "Assessments are snapshots in time. . . . The agency should not rely on one individual assessment, but instead conduct a series of assessments."[20] Although domestic violence screening is generally done by a child welfare agency, courts can and should ensure that the agency is properly assessing for domestic violence throughout the life of each case. Stakeholders should collaborate to create and evaluate assessment tools and train those responsible for employing them.

Participate in and facilitate ongoing training on co-occurrence issues

The federal government has also recognized the need for quality training for courts and child welfare workers on the unique dynamics of child maltreatment cases involving domestic violence. Both CAPTA and VAWA identify training as a high priority and specifically authorize funding to further this goal.[21] It is important that judges receive training on domestic violence so that they are in a position to make informed reasonable efforts rulings. Because of the high turnover in child welfare agencies, it is also important that judges inquire into the level of training received by those that appear in their courts to ensure that they are offering appropriate services to the families they serve.

Include the family in decision-making and support the role of the non-abusing parent

The 2010 reauthorization of CAPTA recognizes that families have not been sufficiently involved in agency decision-making in dependency cases. As such, CAPTA instructs CPS to promote the use

[19] Bragg, H. L. (2003). *Child protection in families experiencing domestic violence*. U.S. Dept. of Health and Human Services. Retrieved from https://www.childwelfare.gov/pubs/usermanuals/domesticviolence/domesticviolence.pdf.

[20] National Council of Juvenile and Family Court Judges (2011). *Checklist to Promote Perpetrator Accountability in Dependency Cases Involving Domestic Violence*. Retrieved from http://www.ncjfcj.org/sites/default/files/checklist-to-promote-accountability_0.pdf

[21] CAPTA Reauthorization Act of 2010, Public Law (P.L.) 111-320, §§ 112 & 201-210; U.S. Department of Justice (2013). *Office on Violence Against Women (OVW) VAWA 2013 summary: Changes to OVW-administered grant programs*. Retrieved from http://www.ovw.usdoj.gov/docs/vawa-2013-sum.pdf.

of family member input in decision-making and to support the care-giving role of the non-abusing parent. For example, in cases where the victim of domestic violence decides to end the relationship or where CPS determines that the abuser can have no contact with his children, agencies should use their authority to remove the perpetrator from the home and make efforts to maintain the children in the home with the non-abusive parent.[22] Site 3 has responded to this issue by removing the term "failure to protect" from child welfare vernacular and by allowing non-abusing parents to co-petition against abusive parents. Non-abusing family members can be the agency's strongest allies in keeping children safe. As such, courts should ensure that child welfare agencies are doing what they can to communicate and cooperate with appropriate family members as much as possible.

Hold batterers accountable

An overarching goal of the Greenbook is to hold batterers accountable for their actions. In most jurisdictions, agencies file petitions in the mother's name, regardless of her status as a victim of domestic violence. When agencies file petitions in the mother's name only, it is easy for fathers to disappear and disengage from the case with little accountability.[23] Site 3 addressed this dilemma by changing state law to permit the child welfare agency to file a petition in either parent's name. Site 3 data revealed that cases involving domestic violence are more likely to be opened in the father's name than in cases that did not involve domestic violence. Ideally, a case opened in the father's name will result in greater accountable for his actions both inside and outside of court.

It is also important that courts use their judicial authority to require batterer compliance with case plan objectives. In the context of Batterer Intervention programs, studies reveal that batterers are more likely to complete the program when they are court ordered to attend,[24] when the court responds early to noncompliance, and when offenders are required to appear in court.[25] Additional research shows that assignment of batterers to specialized domestic violence courts with post dispositional compliance hearings increases compliance.[26] Accordingly, courts should take an active role in monitoring batterers' compliance with all of their case plan objectives and holding them accountable when they fail to do what is expected of them. For guidance on how best to hold perpetrators accountable in dependency actions, courts may consult the *Checklist to Promote Perpetrator Accountability in Dependency Cases Involving Domestic Violence*.

Use reasonable efforts findings to hold agencies accountable

Although federal law requires courts to determine whether agencies made reasonable efforts to prevent the removal of children, reunify them with their caregivers, and achieve permanency, courts are reticent to find that child welfare agencies did not make reasonable efforts.[27] This may be because agencies risk losing federal matching funds under Title IV-E for a child's foster care placement during the time that the court finds that they did not make reasonable efforts. While this fear is understandable, courts should not simply place a rubber stamp on the agency's efforts. Judges should use reasonable efforts findings as a means of holding agency workers accountable for their actions and assumptions. Judges can remind workers that they will be expected to make reasonable efforts in every case and that, in cases involving domestic violence, they are expected to provide services that are appropriate and

[22] CAPTA Reauthorization Act of 2010, Public Law (P.L.) 111-320, §§ 201-206.

[23] Schechter, S. & Edleson, J. (1999). *Effective intervention in domestic violence & child maltreatment cases: Guidelines for policy and practice*. Reno, NV: National Council of Juvenile and Family Court Judges. Retrieved from thegreenbook.info/documents/Greenbook.pdf

[24] Saunders, D. G., & Hammill, R. M. (2003) *Violence against women: Syntheses of research on offender interventions*. National Institute of Justice. Retrieved from https://www.ncjrs.gov/pdffiles1/nij/grants/201222.pdf

[25] Klein, A. R. (2009). *Practical implications of current domestic violence research: For law enforcement, prosecutors and judges*. National Institute of Justice. Retrieved at https://www.ncjrs.gov/pdffiles1/nij/225722.pdf

[26] See Klein (2009) for a review.

[27] Shotton, A., *Making Reasonable Efforts in Child Abuse and Neglect Cases: Ten Years Later, 26 Cal*. W. L. Rev. 223, 226 (1989-90).

timely, and that address the safety concerns inherent to domestic violence.[28]

Promote community collaboration

The 2010 reauthorization of CAPTA recognized the need for increased community collaboration by authorizing discretionary grants to promote collaborative efforts between child welfare and domestic violence advocates. However, the need for increased collaboration is not limited to child welfare and domestic violence coalitions. Judges working in dependency court should also communicate and collaborate with the systems in which they function. Courts should invite community players to the courtroom to help them understand the court's role and function. Courts should also engage with community partners to learn about services available in their own jurisdictions to enable themselves to make informed reasonable efforts decisions.

Collect, manage, and measure performance data

Prior to NCJFCJ's study, there was little empirical data examining court responses to dependency cases involving domestic violence. The NCJFCJ research reveals that although courts are starting to implement important changes to address these types of cases, there is still room for substantial growth. It is only through the collection, management, and evaluation of case data that courts can determine whether efforts to address domestic violence are working and, if so, how well. As such, courts should implement a means of collecting data on dependency cases involving domestic violence, the court's response to those cases, and ultimate case outcomes to improve future practice.

Conclusion

The data in this study suggest that communities are starting to make positive changes in dependency cases involving domestic violence. That said, the journey is far from over. Courts and child welfare agencies cannot keep victims and their children safe or hold perpetrators accountable for their actions if they operate in a vacuum. It is only through a comprehensive and collaborative approach that the system will ever be able to fully attain these important goals. To this end, judges should recognize that they are in a unique position to lead their communities, convene the relevant players for open discussion, and enforce the law in their courtroom. Judges should take ownership of this role by leading a movement for change in their own jurisdictions. Judges should expect those that appear before them to be properly educated on the pertinent issues and should demand competence of those that appear in their courtroom. When necessary, judges should use the force of the law to effect the change they would like to see in their own communities, serving as the mechanism for system change.

[28] For specific examples of appropriate services in dependency cases involving domestic violence, see *Reasonable Efforts Checklist*.

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People wishing to contribute to future editions of the "Domestic Violence Review" should contact Andrew Wentzell at Wentzella@flcourts.org.