

Domestic Violence Review



Office of the State Courts Administrator
Office of Court Improvement

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Office of Court Improvement
Domestic Violence Staff
 Rose Patterson, Chief of Court
 Improvement
 Kathleen Tailer, Senior Attorney II
 Andrew Wentzell, Senior Attorney I
 Susan Proctor, Senior Attorney I
 Leslie Russell, Administrative
 Assistant

Questions or comments?
Contact Andrew Wentzell
Phone: 850-617-4005
Email: Wentzella@flcourts.org

Helpful Web Resources
[Family Courts](#)
[DV Benchbook 2014](#)
[Petitioner Brochure](#)
[Respondent Brochure](#)
[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](#)

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News from the Office of Court Improvement

2016-17 FIIV Regional Trainings

The Florida Institute on Interpersonal Violence (FIIV), in conjunction with Judges Carroll Kelly and Peter Ramsberger, have hosted a total of nine (9) regional training events across Florida. Two (2) additional basic trainings will be scheduled for the 2016-17 fiscal year, tentatively scheduled for February 15-16, 2017, in Tampa, Florida, and April 6-7, 2017, in Ft. Lauderdale, Florida. Additionally, the FIIV is pleased to announce that it will be hosting two (2) advanced training events during the 2016-17 fiscal year, tentatively scheduled for September 14-15, 2016, in Tallahassee, Florida, and October 18-19, 2016, in Orlando, Florida.

Judges interested in attending any of these events may contact Kathleen Tailer at tailerk@flcourts.org for more information. Space is limited.

The Webinar Series

The STOP grant team has produced a recent series of webinars on important topics in the field of domestic violence. The next webinar is scheduled for July, 2016, and will feature Judge Howard McGillin discussing the issue of domestic violence as it relates to military matters. If you would like more information on the webinar, please contact Susan Proctor at proctors@flcourts.org.

The Florida Judicial Benchbook on Domestic Violence

The 2014 Domestic Violence Benchbook is scheduled for an update! The Office of Court Improvement will be updating the Benchbook during the 2016-17 fiscal year. If you have any questions or are interested in suggesting material, please contact Susan Proctor at proctors@flcourts.org. The 2014 benchbook can be found at: [DV Benchbook](#)

Upcoming Projects and Events

- **The 2016 Florida Chapter of the Association of Family and Conciliation Courts (FLAFCC) Conference** **SAVE THE DATE!** The Office of Court Improvement (OCI) is proud to announce that it will be partnering with the FLAFCC in the 2016 FLAFCC Conference, scheduled for September 28-30, 2016, in Orlando, Florida. The OCI is seeking travel authorization to send 6-8 person teams from each circuit to be paid with federal grant monies; if travel authorization is granted, OCI staff will work with each trial court administrator to identify team members, including DV Coordinators and DV judges. In the meantime, please save the date.

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



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 the 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 their two-year cycle renewal. 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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Seeing Individuals through a Trauma Lens

Lynn Tepper, Circuit Judge, 6th Judicial Circuit, Dade City, Pasco County, Florida

Consider the following scenario...

A teen is in court for a detention hearing on a violation of probation charge. She has the following history:

- Chronic runner
- Chronic drug use
- Ten battery charges in the past few years
- By age 10, her Attention Deficit Hyperactive Disorder/ Oppositional Defiance Disorder diagnosis was followed by two involuntary mental health placements (Baker Act placements)
- Grades and school attendance were dismal
- Lives with grandparents
- DJJ notes that in the detention petition, her grandparents reported, *“We can’t handle her anymore. She’s too big for me to hit anymore. She’s just like her Mother! She’s gonna end up in jail just like her.”*

A few questions of the disheveled teen reveal a past that includes:

- A 7 year-old girl taken from her substance-abusing mom by the courts
- Dad in and out of prison
- A child on the streets off and on for 6 months

Three decades ago I knew of no one teaching judges & those in child welfare about trauma. I have seen these children in court repeatedly during my 26 years as a circuit judge. *I just didn’t know then what I know NOW.*

What do I know now?

1. Toxic stress & its impact upon the architecture of a child’s brain
2. Trauma and how to recognize the symptoms
3. The lasting medical and psychological effects of adverse childhood experiences (ACEs)

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Stress

Research has demonstrated that there are three levels of stress response that humans exhibit in response to stressful situations. Those responses are:

Positive stress response

- Brief increases in heart rate, mild elevations in stress hormone levels. Childhood development is not adversely affected.
- An example of an event that may trigger a positive stress response is the first day of preschool.

Tolerable stress response

- Serious, temporary stress responses, buffered and attenuated by supportive relationships. If the response is not long-lasting, childhood development may not be adversely affected.
- An example of an event that may trigger a tolerable stress response is the loss of a loved one or a natural disaster.

Toxic stress response

- Strong, frequent, and/or prolonged stress responses. These responses can adversely affect the development of the brain and/or other organs and increase the risk for stress-related disease and/or cognitive impairment.
- Some examples of an event that may trigger a toxic stress response are chronic neglect, exposure to violence, or physical abuse.

Positive stress and tolerable stress responses are responses that are short-lived and have no long-term repercussions. **The toxic stress response, however, can have lifelong effects.** This stress response is so named because it is activated as a result of toxic stress.

Toxic Stress¹ occurs when a child experiences strong, frequent and/or prolonged adversity without adequate adult support. It often begins when a child is exposed to **trauma**, neglect, or other adverse childhood experiences (ACEs).

Trauma

Trauma is an event that is unpredictable, produces a feeling of helplessness, and overwhelms one's capacity to cope. **"Trauma can be a single event, connected series of traumatic events, or chronic lasting stress."**²

Examples of trauma include:

¹ Harvard Center on the Developing Child. Key Concepts: Toxic stress.

http://developingchild.harvard.edu/index.php/key_concepts/toxic_stress_response/

² Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood, Revised. (known as the DC: 0–3R) (Zero to Three, 2005).

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- Natural disasters
- Domestic violence
- School shootings
- Terrorist attacks
- Exposure to other violence (single incident or chronic exposure)
- Sudden or violent loss of a loved one
- Divorce
- Serious accidents
- Physical or emotional abuse or neglect
- Sexual assault
- Incarceration of a family member

Adverse Childhood Experiences (ACEs)³

The ACE study was a collaboration between the CDC (Centers for Disease Control and Prevention) and Kaiser Permanente Health Clinic in San Diego. More than 70 published scientific articles have followed. It is the largest investigation ever conducted to assess the *relationship* of early adversity and adult health.

The ACE Study evolved from a weight loss clinic in which women lost over 100 pounds, but then gained it back. The examiners asked women questions such as the following:

“How much did you weigh when you had your first sexual experience?”

The responses they got surprised and alarmed them. Responses such as the following:

“40 pounds. It was my father.”

After further exploration, the examiners found that, of the initial 186 women questioned, 55% were victims of child sexual abuse. And thus began the journey.

What is an ACE Score?⁴

The ACE Score is a self-reported count of adverse experiences that occurred during the first 18 years of life including:

- Physical Abuse
- Sexual Abuse
- Substance Use Disorder
- Parental Separation or Divorce
- Emotional Abuse
- Domestic Violence (mother treated violently)
- Mental Illness or Mental Health Disorder
- Incarceration (family member in prison)

³ Adverse Childhood Experiences (ACE) Study. Information available at <http://www.cdc.gov/ace/index.htm>

⁴ To download the ACE questionnaire, visit: http://acestudy.org/ace_score

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- Emotional Neglect
- Physical Neglect

In the original 1998 study, the first seven categories (listed above) were included on the ACE questionnaire. Subsequent studies added the last three categories.

ACE Study Findings

- The prevalence of adverse childhood experiences is widespread.
- Of 17,000 respondents (who were largely college educated and middle class), two-thirds had at least one early adverse experience.
- As the number of ACEs increases, the risk for serious health and social problems substantially increases.

In the ACEs study, the following percentages were reported for each Adverse Childhood Experience (ACE):

Household dysfunction

- Substance abuse 27 percent
- Parental Separation/divorce 23 percent
- Mental illness 17 percent
- Battered mother 13 percent
- Incarcerated family member 6 percent

Abuse

- Psychological 11 percent
- Physical 28 percent
- Sexual 21 percent

Neglect

- Emotional 15 percent
- Physical 10 percent

Further, researchers have determined that high ACE Scores had strong correlations to health problems. **People with 4+ ACEs have been found to be:**

- 2x as likely to be smokers
- 6x more likely to be sexually active before age 15
- 7x more likely to be alcoholics
- 2x as likely to have cancer or heart disease

Adverse Childhood Experiences predict adult substance abuse.

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Untreated early childhood events only exacerbate over time. **ACEs predict the 10 leading causes of death and disability⁵ regardless of how well one takes care of themselves:**

- Heart disease
- Chronic lower respiratory diseases
- Unintentional Injuries
- Diabetes
- Influenza and pneumonia
- Cancer
- Stroke
- Alzheimer's Disease
- Kidney disease
- Suicide

Finally, high ACE scores have been linked to serious mental health issues:

- Depressive disorders
- Hallucinations
- Sleep disturbances
- Risk of perpetrating or being a victim of domestic violence
- Anxiety
- Panic reactions
- Poor anger control

What Does This Mean?

Now I am able to look at the parents and children that come to my courtroom through a trauma-informed lens. I can ask better questions, and I can make sure they get the services they need.

*When I see their parents in court I realize:
They were children once too.*

- I see these children during delinquency detention hearings.
- I see these children as teens that were never reunified with their parents after removal years ago. Many were placed in long-term relative care with grandparents that eventually fell apart.
- I have seen these children as a 20 year-old when their drug-addicted children have been removed and sheltered.
- I have seen these children as adults in high numbers as respondents in domestic violence Injunction hearings; their untreated complex trauma exploding.
- I have seen these children as adults in felony court on their 4th drug possession charge, seeking a downward departure to enter treatment instead of prison, based on mental illness and substance abuse.

⁵ Felitti, V. J., Anda, R. F., Nordenberg, D., Williamson, D. F., Spitz, A. M., Edwards, V., Koss, M.P., & Marks, J. S. (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults: The adverse childhood experiences (ACE) study. *American Journal of Preventive Medicine, 14(4), 245-258*

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Through a trauma-informed lens I now see:

- Young children whose parental and sibling attachments, however unhealthy, were broken by the courts;
- Children who were abandoned by anyone in whom they put their trust;
- Children grieving the loss of their parents or other bonded caregivers, unable to express it;
- Children experiencing chronic child neglect and abuse at critical times of brain development;
- Children as unacknowledged, unhealed victims of child sex abuse; and
- **CHILDREN WHERE THE QUESTION HAS BECOME “What’s wrong with you?” instead of what it should have been: “What happened to you?”**

We must Presume Trauma

We have the ability to change generations by understanding what science has taught us about trauma and the impact of adverse childhood experiences.

Adverse Childhood Experiences [ACEs]:
Early exposure to severe adversity like
abuse, neglect or violence
have the potential to carry lifelong mental and physical consequences.

We now know that trauma and toxic stress in childhood **lead to a multitude of societal problems such as:**

- Physical health problems
- Mental health problems
- Substance abuse and addictions
- Academic and school problems
- Delinquency
- Poor parenting capacity
- Domestic and sexual violence
- Crime

Anyone who touches the life of a child must be trauma-informed. Intensive evidence-based education is critical to initial and ongoing training for courts, child welfare, domestic and sexual

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violence programs, juvenile delinquency systems, mental health and substance abuse providers, and schools. **How we speak to children and adults is as important as what we say.**

Encouragement and kindness are as essential as active listening. Trauma-focused training of assessors, therapists, mental health and substance abuse providers are critical to assure that screening and therapy uncovers and heals past trauma and adverse childhood experiences [ACEs] rather than what has traditionally been done: label and medicate them. **Consider the fact that 90% of children known to the foster care system have been exposed to trauma.**⁶ There must be protocols for *all* who come in contact with a child or their parent to assure they recognize red flags and avoid triggering trauma stress reactions.

We must **build resilient children and parents** by recognizing and healing their trauma. We have the ability, indeed the *duty*, through multi-disciplinary education and collaborative efforts of all the systems that intersect with the justice system, to change the trajectory of the children and parents who appear in the courts. By:

- using a trauma-informed approach at *every* stage of *each* proceeding,
- building trauma-trained providers and assessors,
- giving children and parents what they need the most when they appear to deserve it the least,

We can give them **hope of a promising future** while **ending the recycling and re-traumatization of families in and out of the judicial system.**

For more information on trauma and child development, please review the Family Court Trauma Toolkit, available online at <http://www.flcourts.org/resources-and-services/court-improvement/judicial-toolkits/family-court-toolkit/>.

Finally, it is important to note that domestic violence perpetrators need to be held accountable for their violent behavior. Utilizing a trauma informed lens does not negate the need for criminal sanctions among domestic violence perpetrators. In fact, weak community sanctions for domestic violence perpetration is a community level risk factor for domestic violence. As such, the enforcement of criminal sanctions helps to prevent violence from occurring in the future as perpetrators understand that there are consequences for the violence they commit.

See community level risk factors -

<http://www.cdc.gov/violenceprevention/intimatepartnerviolence/riskprotectivefactors.html>



⁶ Stein, B., Zima, B., Elliott, M., Burnam, M., Shahinfar, A., Fox, N., et al. (2001). Violence exposure among school-age children in foster care: Relationship to distress symptoms. *Journal of the American Academy of Child and Adolescent Psychiatry*, 40(5), 588–594.

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Caselaw Corner



David v. Textor, ___ So. 3d ___, 2016 WL 64743 (Fla. 4th DCA 2016). **ORDER GRANTING PROTECTION FROM CYBERSTALKING REVERSED**. The appellant appealed a non-final order denying his motion to dissolve an ex parte injunction prohibiting cyberstalking. Both parties have companies which produce holograms used in the music industry, and an argument and lawsuit arose regarding the right to show a hologram during a music awards show. The trial court granted the amended petition for protection that prohibited the appellee from communicating with the appellant or posting any information about him online, and ordering that he remove any materials he already had posted from the websites. The order was based upon various texts, emails, posts, and a fear of violence. The appellant claimed that the texts and posts were merely the result of a heated argument and didn't constitute cyberstalking, and were also a violation of his first amendment rights. The appellate court agreed and reversed the order that granted the injunction. The court also noted that "(w)hether a communication causes substantial emotional distress should be narrowly construed and is governed by the reasonable person standard." The court stated that none of the communications should have caused substantial emotional distress and served a legitimate purpose, and therefore did not constitute cyberstalking.

<http://www.4dca.org/opinions/Jan.%202016/01-06-16/4D14-4352.op.pdf>. January 6, 2016.

Leaphart v. James, ___ So. 3d ___, 2016 WL 540649 (Fla. 2d DCA 2016). **INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE REVERSED**. The respondent appealed after an injunction for protection against domestic violence was entered against him that had been brought by his ex-girlfriend. The respondent's attorney requested a continuance due to his schedule conflict with another case, but the court didn't rule on the motion and went forward with the hearing having the respondent appear pro se. The petitioner testified that her house and car were vandalized and that neighbors had seen someone similar to the respondent commit the acts. She also testified that the respondent had hit her in the lip once about a year ago. The respondent denied doing any of the alleged acts. The appellate court reversed the order, stating that there was insufficient evidence that the respondent committed the acts of vandalism, and that the petitioner did not have reasonable cause to believe she was in imminent danger of becoming a victim of domestic violence since the hurt lip incident had happened over a year ago. The court noted that the petitioner's testimony about her neighbors' comments was hearsay, and that the trial court violated the respondent's due process rights by not granting his motion for a continuance so his attorney could be present.

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/February/February%2010,%202016/2D14-1407.pdf. February 10, 2016.

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