

JUSTICE FOR FAMILIES

Technical Assistance Newsletter



The Court's Role in Promoting Access to Justice for Immigrant Survivors

By Rafaela Rodrigues and Leslye Orloff

State courts are among the first in the justice system called upon to provide access to justice for new immigrant populations. Congress created [humanitarian immigration relief](#) to strengthen the ability of courts, law enforcement, prosecutors, advocates and attorneys to serve and protect immigrant survivors of [domestic violence, sexual assault, child abuse, and human trafficking](#). Judges and Courts can play a special role in providing access to justice and referrals to available resources for immigrant survivors. [These humanitarian protections](#) significantly improve the lives of immigrant victims and their children. [Recent research](#) found significant improvements in confidence, mental health, stability and community contributions by VAWA self-petition and U visas applicants who receive protection from deportation and work authorization. After receiving legal work authorization immigrant survivors' willingness to trust the police increased 114%, 30% continued to make police reports regarding future crimes and 22% help other victims obtain justice system help. Survivors also saw 74% reductions in immigration-related abuse and 65% reductions in perpetrators using immigration status against the victim in custody cases.

Continued on page 3

IN THIS ISSUE

THE COURT'S ROLE IN PROMOTING ACCESS TO JUSTICE FOR IMMIGRANT SURVIVORS

SPOTLIGHT: COALITION ENDING GENDER-BASED VIOLENCE

LATEST NEWS FROM OUR TEAM

NEW RESOURCES FROM OUR TA PARTNERS

COORDINATED COMMUNITY RESPONSE

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WELCOME

Hello Justice for Families grantees! In this edition of our technical assistance newsletter, you'll read about the intersection of domestic violence and immigration from the National Immigrant Women's Advocacy Project (NIWAP), as well as the Coalition Ending Gender Based Violence's Domestic Violence Assessment Project in Seattle, Washington. You'll also see news about the Center's Coordinated Community Response training and technical assistance project, along with our team's latest publications and resources from our technical assistance partners.

As the courts and communities across the country continue to adapt their responses to domestic violence, we hope to continue supporting your projects with innovative ideas and resources that meet your needs. As always, if you're interested in highlighting your project in the next newsletter, or if you have any further questions about how the Center's training and technical assistance could support your project, please contact us at dvinfo@innovatingjustice.org.

Robyn Mazur, JD

Director of National Training and Technical Assistance

LATEST NEWS

FROM OUR TEAM

The Gender and Family Justice team at the Center for Justice Innovation has been hard at work implementing training, webinars, and creating resources for our technical assistance in domestic violence.

As a part of the Center's Justice for Families program, the team hosted a multi day training, "e-Series for Courts," designed to help judicial officers and stakeholders effectively ensure accountability and safety in intimate partner violence cases. Beginning on April 1st, Center for Justice Innovation hosted three 90-minute discussion sessions each week where participants engaged in peer-to-peer learning and dialogue with national experts. Among the topics covered were managing risk with intimate partner violence cases, guiding principles and procedural fairness in abusive partner intervention, and compliance.

Through our Justice for Families, Train the Trainer, and Domestic Violence Fundamentals Training projects, the team has produced several resources focusing on domestic violence cases involving children, common facilitation challenges when engaging training participants on intimate partner violence, and ways for court staff to enhance their responses to domestic violence.

Under our Justice for Families project, we developed a [podcast](#) featuring Cook County Judge Marina E. Ammendola and Child Relief Expediter Stephanie Senuta to discuss the county's Child Relief Expediter Program, which provides a voluntary and confidential process to help parents with orders of protection, develop safe and effective visitation plans, and address other child-related issues.

Hosted by the Center for Justice Innovation and Futures Without Violence, our [Train-the-Trainer podcast series](#) examines common facilitation challenges when engaging participants on intimate partner violence. Our guests, Loretta Frederick, JD, Associate Justice Anne K. McKeig, Ret. Judge Jeffrey Kremers, and Gretta Gardner, JD, share strategies to collaborate with judges and court staff, prepare for complex topics, and safely approach intimate partner violence in adult education.

As a part of our Domestic Violence Fundamentals Training project, we developed [three training videos](#) to provide essential information for court staff seeking to learn more about domestic violence. Many court-based professionals struggle with defining their exact role and responsibilities in cases involving domestic violence due to the unique safety concerns present.

Continued on page 7

Access to Justice for Immigrant Survivors

As a result, survivors have greater access to justice and are more effective witnesses, leading to better outcomes and safety for survivors, their children, and law enforcement agencies in holding perpetrators accountable. Finally, the survey results found that employment authorization led to increased work force participation including a 300% increase in immigrant survivors earning at least minimum wage.

The Role of Courts

Courts play an important role enhancing victim's safety and economic security particularly for immigrant crime victims who come to court without knowing about immigration relief for immigrant victims of crime or abuse. Judges and judicial officers are congressionally designated to issue U visa certification and T visa declarations and to issue court orders with findings of fact and conclusions of law that abused and neglected immigrant children need to file for Special Immigrant Juvenile Status. The National Immigrant Advocacy Project has bench cards, toolkits, and other publications that help courts to identify, screen for, and understand immigration protections designed to help immigrant victims of domestic violence, sexual assault, child abuse, trafficking, and other criminal activities.

Custody

Immigration issues can arise in custody cases involving mixed immigration status families. In custody cases, state statutes require that courts issue custody orders based upon best interest of the child and primary caretaker determinations.

The majority of courts that have taken immigration status into consideration have ruled that immigration cannot be the dispositive factor in a custody determination. Immigration status is often raised in custody cases in two ways: 1) an opposing party will raise the immigration status of the opposing party to gain advantage in the custody case; or 2) a foreign born litigant will raise their own immigration status as evidence to describe how the perpetrator is subjecting them to immigration related abuse, to explain that they have obtained or are obtaining legal status, or to explain what benefits they can and cannot access and why they need child or spousal support.

Nevertheless, in some reported cases, courts displayed bias or considered legally incorrect information and/or made assumptions about immigration laws in custody determinations that led to immigrant parents unjustly losing the custody of children. When courts access legally correct information about immigration laws, judges are better able to hold hearings and issues rulings that reflect an accurate understanding of current immigration laws and policies resulting in the fair administration of justice that are free from bias.

Protection Orders

Courts commonly encounter immigrant victims requesting domestic and sexual violence or stalking protection orders. Immigrant survivors often need creative protection order remedies designed to curb immigration related abuse, protect victims still living with their abusers while awaiting work authorization, and make findings of battering or extreme cruelty and/or obtain from the abuser's possession documents or evidence needed for the victims immigration case. Judges who issue protection orders can sign U visa certifications which provide required evidence in the victim's immigration case but do not grant immigration status which can only be granted by the Department of Homeland Security.

Continued on page 5

Spotlight: Coalition Ending Gender Based Violence Domestic Violence Assessment Project

Domestic violence survivors, advocates, and attorneys throughout King County, WA, have consistently expressed concerns regarding parenting evaluations, guardian ad litem investigations, and other assessments related to child custody recommendations. Because the Court relies so heavily on information provided by evaluators[1], it is essential that these practitioners have the training and tools necessary to identify and articulate the presence, nature, and impact of domestic violence in any given family. In addition to evaluators, other family court-related professionals[2] who lack DV-specific training can unintentionally compromise safety and even increase dangerousness. Without appropriate protections, survivors and their children are often left vulnerable to ongoing abuse and trauma that can prevent them from achieving autonomy, health, and wellbeing.

The Intimate Partner Violence Impact Assessment (IPVIA) was developed with our 2016 JFF award. As explained in the Domestic Violence Bench Guide for Judicial Officers (Washington Courts, 2016) and in Domestic Violence, Parenting Evaluations and Parenting Plans (Ganley, 2009), domestic violence is a behavioral problem that must be identified and assessed using behavioral assessment techniques rather than clinical, mental health, or therapeutic assessments.

[1] The term “evaluator” encompasses all individuals who conduct evaluations and/or assessments in the context of contested custody cases: parenting evaluators, guardians ad litem, family law CASAs, and Family Court Services. Washington State does not use the term “custody”, therefore, there is no “custody evaluator” designation here.

[2] Includes judicial officers, parenting coordinators, parenting coaches, mediators, reunification therapists, and family law attorneys.”

[3] Evaluators are instructed to ask the same questions of each party. The tool also provides a separate set of questions to use with each collateral contact.

Behavioral assessments gather information regarding conduct that is occurring or has occurred, as well as the impact of that conduct. The IPVIA provides a step-by-step protocol and structured interview questions[3] with suggested follow up prompts that help the evaluator to identify and articulate behaviors and associated impacts in six different domains: Assaultive and Coercive Behaviors; Dangerousness Indicators; Impact of Domestic Violence on Adults; Impact of Domestic Violence on Children; Protective Factors; and, Co-occurring Issues. We’ve also developed a report template that can assist evaluators in presenting the information in a clear and consistent manner. The tool and companion specialized training emphasizes the importance of accounting for DV and its impacts throughout the evaluation process and within any resultant recommendations. Additionally, we strongly encourage peer review and consultation among practitioners who conduct parenting plan evaluations. To that end, we offer facilitated consult groups to practitioners who have completed our intensive IPVIA workshops. These consult groups are specifically focused on improving domestic violence screening and assessment competence and confidence.

Along with our Project Partners (King County Superior Court, King County Protection Order Advocacy Program, Family Law CASA, King County Bar Foundation, LifeWire, and Northwest Justice Project) we are using our continuation funding to build on and enhance the work begun in 2016 by providing a variety of training opportunities regarding domestic violence screening and assessment, post-separation battering, and accounting for domestic violence in parenting plans. We have developed a tip sheet for judicial officers and family law attorneys to help determine the quality of DV screening and assessment in the reports they receive.



Continued on page 7.

Access to Justice for Immigrant Survivors continued

Furthermore, it is important for judges to understand [how protection orders, mutual protection orders, and protection order enforcement](#) impact immigrant litigants. Issuance of protection orders has no impact on the immigration status of any party, but certain protection order violations constitute deportable offenses and require Padilla warnings.

Public Benefits

Judges need easy access to information about which benefits and services immigrant crime victims and children are eligible for so that judges direct parties and issues orders that help immigrant crime victims and children access support needed for healing and resilience. Many publicly funded benefits and services are open to all persons without regard to immigration status. Other state and federal public benefits are only open to certain categories of immigrants. When immigrant victims apply for immigration relief benefits access expands. NIWAP has developed [state-by-state benefits maps, charts and screening tools](#) that assist courts in identifying which public benefits each immigrant survivor or child is eligible to receive.

NIWAP provides courts training, technical assistance, resources and tools including bench cards, best practices and model policies. See [NIWAP's flyer for additional information](#). To request training, contact info@niwap.org. Trainings are designed to meet the needs of the local jurisdiction or state and involve both NIWAP staff, judicial trainers and as needed a national team of experts.



New Resources from our TA Partners

Enhancing Court Access Toolkit*Esperanza United*

This **toolkit** provides resources for judges, court administrators, advocates, and law enforcement professionals striving to make systems more accessible for survivors with intersectional identities or individuals with limited English proficiency (LEP). For historically underserved and marginalized racial and ethnic groups in the United States, the struggle for equal representation in the courts has been a perpetual challenge. An individual's class, age, race and ethnicity, immigration status, sexual orientation, and cultural identity impacts their help-seeking decisions. These resources cover cultural responsiveness; addressing the ways race, gender, and ethnicity intersect in the court's system; implementing trauma-formed practices to serve better survivors accessing institutions such as courts; and sharing promising practices on the pandemic.

Civil Protection Orders: Strategies for Safe and Effective Service of Process*National Council of Juvenile and Family Court Judges*

For civil protection orders to be enforced, they first must be served on the respondent. Most states require personal service of petitions and orders of protection. Whether due to staffing and resource issues or a respondent actively evading service, these delays can keep survivors from being able to access the remedies protection orders can provide. Further, the service of a protection order can be a time of increased danger for the survivor and for law enforcement.

This **publication** includes strategies and resources for effectuating service of process in a safe and effective manner, as well as a preliminary look at the use of electronic service of process in the civil protection order system.

Coordinated Community Response

The Center for Justice Innovation is pleased to share that the Office on Violence Against Women (OVW) has awarded us a training and technical assistance grant alongside the National Crime Victim Law Institute (NCVLI) for Improving Criminal Justice Responses (ICJR) grantees in planning, implementing, and enhancing their Coordinated Community Response (CCR) projects. A Coordinated Community Response (CCR) brings together a diverse group of community partners to develop a shared vision to collectively and consistently address the widespread impact of domestic violence, dating violence, sexual assault, and stalking and provide multiple pathways to support, healing, and accountability for families. For more than a decade, the Center has worked with communities across the country on strengthening their response to gender based violence. Together with NCVLI, the Center provided a variety of services during a 9 to 12-month planning period to prepare sites for the launch of their ICJR CCR projects, including:

Coordinated Community Response Strategic Planning Toolkit, designed to help communities better understand and enhance their current CCR by engaging in strategic planning and community engagement activities that ensure each project plans and implements sustainable strategies that respond to the unique strengths and challenges of each community.

Cohort calls and site coordinators' calls to discuss strategic planning activities, offer an opportunity to connect with fellow grantees, and identify any additional training and technical assistance needs.

Office hours and one-on-one support from members of our team through phone calls, email communication, and in-person consultations, and facilitation support.

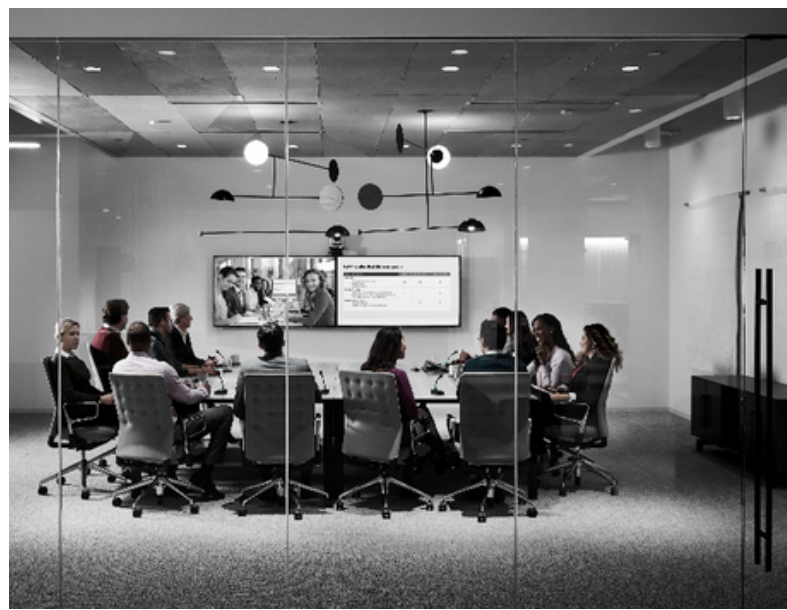
Foundational trainings that cover key substantive topics such as privacy obligations, collaboration, victims' rights, facilitation, inclusive communication, and mediation of differences.

Role-specific trainings for various professions such as advocates, prosecutors, and law enforcement.

Resources provided to aid ongoing work through an online collaborative space.

Our work this year culminated in the "Coordinated Community Response – Implementing Success" Conference in Portland, Oregon on October 19th and 20th, hosted by NCVLI. At the conference, grantees had the opportunity to hear from a wide variety of presenters and technical assistance providers on the impact of CCRs, collaboration, evaluation and assessment, and engaging culturally specific communities and agencies.

The Center very much looks forward to our continued work with NCVLI and the ICJR grantees, as they work to develop these important collaborations that enhance nationwide responses to gender-based violence. For more information on Coordinated Community Response (CCR), please contact icjrcrta@gmail.com.



Coalition Ending Gender Based Violence Continued

We recently released a new tip sheet with specific considerations when domestic violence has been identified in the context of our state's Best Interests of Children factors. And we are preparing to launch a specialized training and support program for the staff and volunteers of our local Family Law CASA program to increase access to high quality and consistent practices to screen, assess, and account for domestic violence.

Our Washington State statutory definition of domestic violence has recently been revised to include coercive control, harassment, and nonconsensual sexual acts, so we are taking this opportunity to update and revise the IPVIA to reflect what we've learned from working with the two cohorts of practitioners who have been trained to use the tool. We are also developing an online component of training to better prepare practitioners for using the tool and we will continue to provide live consultation and practical application opportunities as needed. We will be posting the tool and the online training modules on our website within the next few months. Look out for an announcement soon!

We know that domestic violence does not necessarily end when the parties separate and family court can become a venue for post-separation abuse tactics that can prolong litigation and drain survivors of financial, social, and psychological resources. The abusive parent often uses court-ordered access to children as means to control, undermine, harass, or harm the non-abusive parent. We believe that early, universal, and consistent domestic violence screening and assessment is essential in all family law cases and will improve immediate and long-term outcomes for survivors and their children. We are excited to share our tools and resources more broadly in the coming months.

Latest News From Our Team Continued

Finally, our Abusive Partner Accountability and Engagement Training and Technical Assistance Project recently revised its [Guiding Principles for Engagement and Intervention with People Who Cause Harm through Intimate Partner Violence](#), designed to inform abusive partner intervention programming (APIP), also known as battering intervention, at all stages of intervention—development, implementation, and evaluation. The goal of the principles is to enhance not only programs but also the broader community response to accountability and engagement for people who cause harm through intimate partner violence (IPV). Equity, in all its forms, is a central component of the guiding principles and is interwoven into the fabric of each interrelated principle.

The team also produced a [podcast series](#) focusing on trends and innovations in abusive partner intervention programming. Topics include abusive partner intervention in native communities and the LGBTQIA+ community, culture, wraparound services, restorative justice, enhancing faith-based responses, centering survivor voices, the concept of hope, and more.

For further information on how the Center's training and technical assistance projects can support your work, please contact us at dvinfo@innovatingjustice.org

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