



Venture Beyond DV 101

Practical Tools for Child Support Attorneys

Ana Hansen, TX
Linda Monroe, OK
Michael Hayes, OCSS
Tom Atkinson, WA



Seven facts about domestic violence to inform your practice

- Approximately 40% of CPs with Title IVD cases report violence with the other parent on the case
- 12% of CPs nationally have the Family Violence Indicator
- 70% of DV homicides occur after the survivor has left
- On average, survivors make 7 or more attempts to leave an abusive relationship before being able to leave for good
- Child support actions pose risk of increased harm for survivors
- ~75% of DV survivors suffer from PTSD
- Financial stability is the single biggest predictor of whether a survivor can leave a violent relationship



From the OCSS “Essentials for Child Support Attorneys” Chapter 16:

There are many factors that indicate potential risk of harm when pursuing child support services. The most important source of information for child support attorneys are the survivors, as they are the experts on their situation and are likely to have the best knowledge of what may trigger the other parent.

Child support attorneys are particularly likely to encounter safety concerns in the context of legal proceedings and hearing preparation as those actions pose heightened risks for survivors. Attorneys play an important role in evaluating cases and working with other child support program staff, the courts, and domestic violence advocates to ensure that, wherever possible, child support services are provided safely.

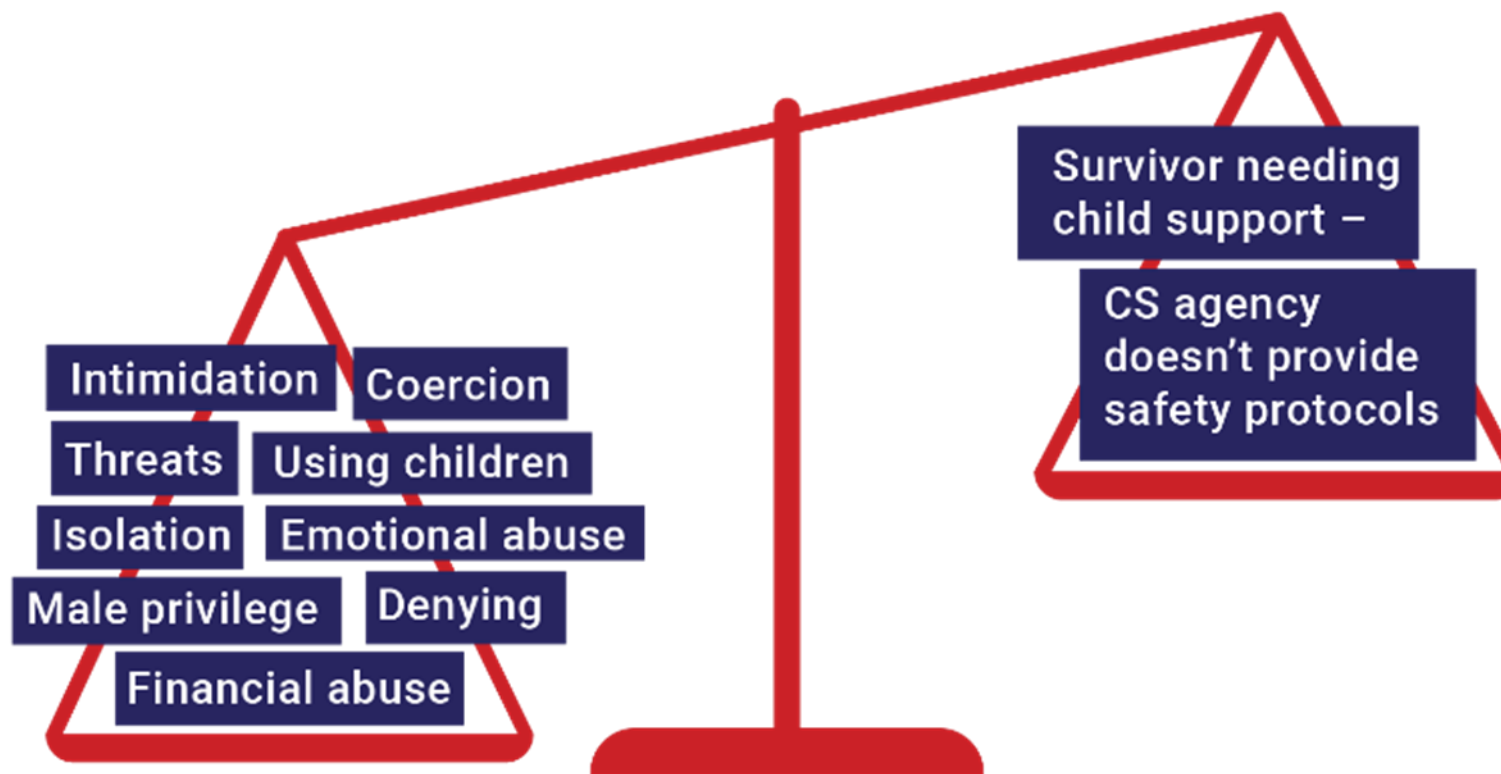
<https://www.acf.hhs.gov/css/training-technical-assistance/essentials-attorneys-child-support-enforcement>





“Neutrality helps the oppressor, never the victim”

Elie Wiesel





Adopting or modifying hearing practices to ensure a survivor's right to give testimony, provide evidence, and freely participate doesn't equal bias –

It's essential for justice.



OCSS “Essentials for Attorneys” Handbook

“Because the attorney has a continuing relationship with the parents as long as the case is in the system, the attorney is in an important position to observe the parties and draw conclusions about the need for protections.”

“When family violence is an issue, it is important for the attorney to share as much information as possible with the party who has been victimized about enforcement options.

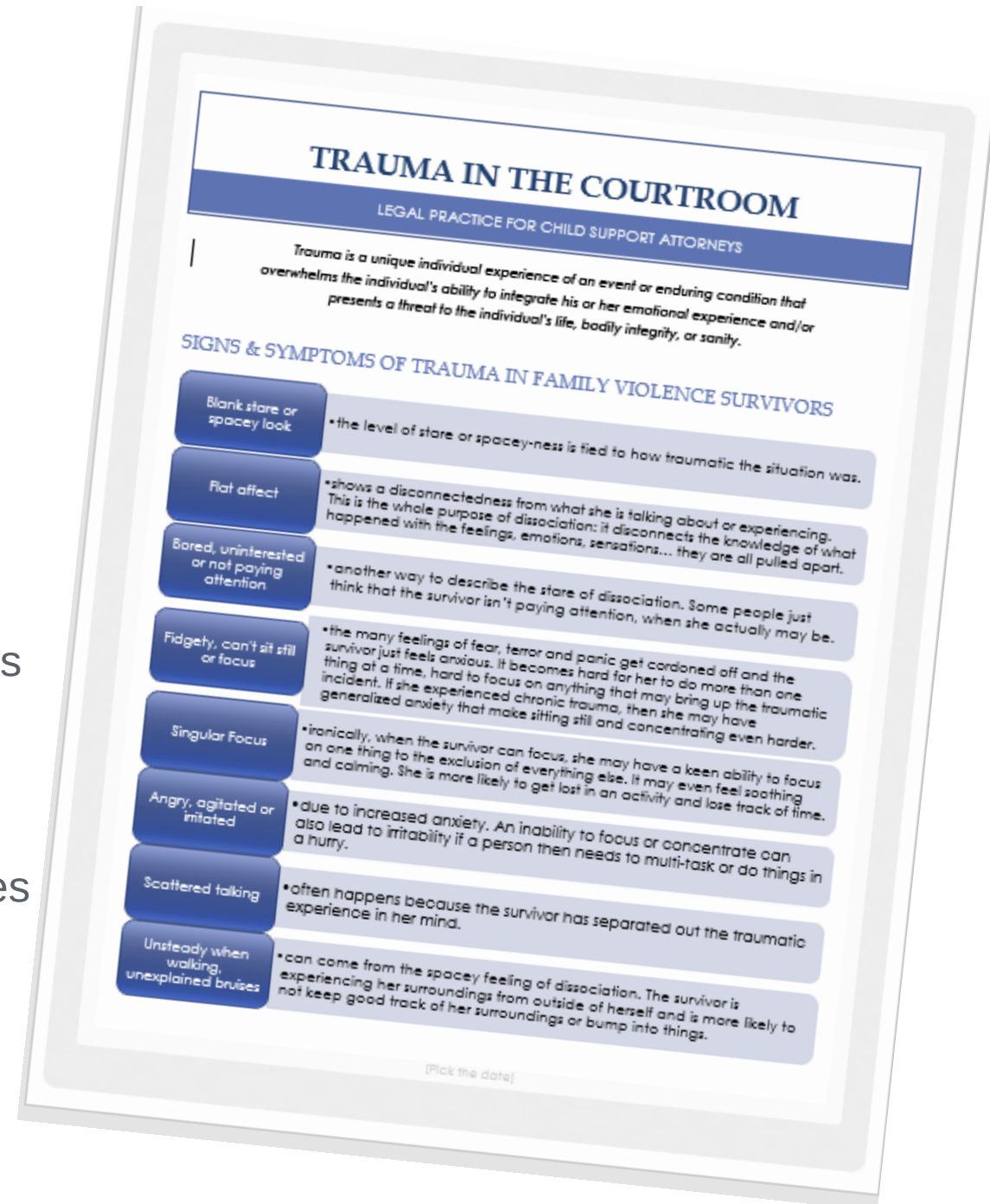
- The attorney and customer should discuss possible ramifications to enforcement actions.
- To the greatest extent possible, the attorney should allow the customer to participate in the decisions about enforcement.
- If enforcement is initiated, the customer can help the attorney and agency develop steps to minimize any risk to the customer and children.
- Enforcement does not have to be all or nothing.”

“The attorney can also be an advocate for victims’ safety in court.”



Preparing yourself

- Know
 - DV prevalence and dynamics
 - Signs of trauma
 - Who your local DV providers are
- Manage
 - Bias and assumptions
 - Trauma exposure impacts
- Skills
 - Trauma responsive communication – modify questions and approaches to facilitate testimony
 - Modify processes to “balance scales”





Preparing the case

Case Number: _____ Hearing Date: _____

FVI Flagged Case Docket Prep Information
Use available systems (ACES, CSE Tools, remote access court record databases, etc.) and information to answer the following questions in advance of court.

CP Name: _____ NCP Name: _____ Yes ☐ No ☐

Is the alleged aggressor a party to this case? _____

If Yes, who is the alleged aggressor? CP ☐ NCP ☐ Other ☐

If Other, who? _____

Identity of the alleged aggressor if not a party to this case: _____ Yes ☐ No ☐

Is the alleged aggressor party to another DCSS case? _____

If Yes, what is the ACSES # of the other case? _____

When was this case flagged with the FVI? _____

Why was this case flagged with the FVI? (Protective Order? Yes ☐ No ☐) _____

What documentation or additional information is available on ACSES, CSE Tools, case files?
(Attach relevant documents, e.g. Protective Order) _____

Notes: _____

(Case notes or documentation of specific threats to kill, access to weapons, or previous incidents involving weapons, strangulation, or serious physical harm indicate increased lethality risk. Court security staff should be alerted.)

Case reviewed by: _____ Date: _____

ATTORNEY WORK PRODUCT
PRIVILEGED

When was the case flagged?

Is the alleged perpetrator a party?

Why was the case flagged?

PO?

Documentation?

Any recent contacts and information?

Alert court staff?



Preparing the survivor

Court logistics

Explain process

Explain “flow” of questions

Encourage advocacy

Prepared notes

Ask what helps/hurts

Explain safety options

FV Interview Worksheet (Party Name) _____

Findings	
Nondisclosure If other party had your current or future address information, is there risk of physical or emotional harm to you/child(ren)?	
Information	
Threats - Threatened to harm you, your family, child(ren), or pets? ** - Threats that involved a weapon? ** - Threatened to kill you or your child(ren)? ** - Threatened you if you sought help from police or courts?	
Actions - Physically assaulted you or your child(ren)? - Attempted to strangle or choke you? ** - Actions made you fear for you or your child(ren)'s safety? - Tried to control your daily activities? ** - Stalked or followed you? **	
Incidents - Approximate Date of Incident - Location of Incident - Brief description of the incident - Weapon involved? Type? - Injuries? Describe. - Medical attention? Where? - Drugs or alcohol during the incident? - Anyone, including a child, injured during this incident?	
Responses 911 called? Who called 911? - Did law enforcement respond? Report filed? - Witnesses to the incident? - Applied for a protective order? Outcome? - Assistance from a family violence shelter or program? - Documentation of these acts or threats?	
**Indicates increased lethality risk – check for referrals and safety planning with court	

Nondisclosure Only	Yes/No
Protective Order?	
Notes:	

ATTORNEY WORK PRODUCT - PRIVILEGED



Post-hearing practice

- Review the final Order - address redacted?
Legal renderings not conflicting?
- Explain the order to both parties including the time it will take for collections and provide a copy to the parties;
- Allow the survivor to leave first (or with court escort if possible/available)
- Follow other safety protocols including connection to local DV program – safety planning
- Make thorough case notes -
- Follow-up



Legal Practice Scenarios

You are meeting with a custodial parent prior to a hearing and they tell you they are wondering about forgiving \$45,000 in arrears owed to them because they don't want trouble from the noncustodial parent. The case is flagged with a family violence indicator. They ask if that's something they can do?



Legal Practice Scenarios

Parents are together for a in office negotiation/pre-trial settlement meeting to establish a child support case. The case was opened due to an assistance referral. NCP tells you that they prefer to meet with you together as they fully expect to get back together in the future after they work a few things out. NCP is doing most of the talking and resists meeting separately. You note it's an agency policy to initially meet individually. When meeting with CP they tell you about DV with NCP – including choking and a gun threat. They are worried about what happens once child support comes out of NCP's check... They also tell you the NCP is claiming more time with their child than he actually spends.



Legal Practice Scenarios

CP appeared for court but was afraid to come in so she left before the hearing. The NCP presented information to the court and the judge placed him in a holding cell until he calmed down based on his behavior. NCP texted the CP that she needed to get her “(*&\$#@%” back to the courtroom to tell the judge that they were living together, and she wanted to close her case.

CP returns and you go into the lobby to speak with her and she is afraid to come into the courtroom and begins to cry, explaining that the text she received stated he was going to jail if she didn't come back up there and tell them that they were living together.



Legal Practice Scenarios

You are at court, setting up for the day, when a customer with a paternity case on your docket approaches you and says, “I called the office to close my case, but they said I had to come to court today. If we go through with this today, I think my child’s father will come after me and hurt me. He’s threatened to kill me in the past, and I have real reason to believe he’ll follow through. What should I do?”



Legal Practice Scenarios

You are conducting a virtual hearing to modify child support. The caseworker has run guidelines calculations and the amount of support is set to increase by \$350 per month. Both parents have joined from separate zoom links provided by the court. The custodial parent seems distracted and occasionally looks off to the side. She says that she doesn't want the modification. The noncustodial parent has their camera off and is muted for most of the hearing. You notice that the CP mutes themselves any time the NCP unmutes to speak.



Legal Practice Scenarios

An application is completed by the alleged perpetrator of domestic violence from an active final order of protection. A petition must serve the other party which would be the alleged victim. This process would require that the alleged victim's address be listed on filed documents and provided to the alleged perpetrator. There is no state or federal obligation to be involved aside from the application by the alleged perpetrator. There has been no contact from the alleged victim and there is no valid contact information for them aside from their address from a database.



Legal Practice Scenarios

Case reviewed for modification. No prior family violence or non-disclosure issues. In communications with custodial parent for locate, she tells us that since last time she was in court there have been issues of NCP dropping by her house often and without reason now that she is dating someone. She expresses discomfort and feeling harassed by NCP frequent visits and drive bys. She does not want NCP to have her new address and she wants to do child drop off and pick up at a public location. We mark case with FVI and file judicial action requesting a non-disclosure finding. She returns the affidavit with the same info that she has already provided regarding her concerns. Parties are served, hearing is set and CP does not appear. Modification issues are addressed but NCP does not agree to non-disclosure or to change the drop off or pick up location. How do we proceed?



Legal Practice Scenarios

CP appears for court hearing to establish child support with DV advocate accompanying her – family violence indicator on case. Pre-trial negotiation (done separately) produces no agreement – during meeting with CP you notify her that she can ask the court for \$4000 in retroactive support. During hearing CP appears very absent-minded and kind of “checked out”. You present information about retro support but when the judge asks CP she’s not interested. Court addresses parenting time with standard visits and NCP asks court for a geographical restriction on child residence. CP is non-responsive when court asks if there’s any reason not to order the restriction.



For more information:

Domestic Violence Resources, Training, and Collaboration – IM 22-04

<https://www.acf.hhs.gov/css/policy-guidance/domestic-violence-resources-training-and-collaboration>

Model Procedures for Domestic Violence Cases – IM 19-06

<https://www.acf.hhs.gov/css/policy-guidance/model-procedures-domestic-violence-cases>

Safe Access to Child Support Services: Scope of the Issue – IM 15-02

<https://www.acf.hhs.gov/css/policy-guidance/safe-access-child-support-services-scope-issue>

Contact:

Michael Hayes

OCSS

Michael.hayes@acf.hhs.gov

