

Assisting Self-Represented Litigants in Domestic Violence Cases

Recommended Strategies

Assisting Self-Represented Litigants in Domestic Violence Cases

Recommended Strategies

Authors

Darren Mitchell

Katherine Wurmfeld

This report was supported by Grant No. 2015-TA-AX-KO23, awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, or recommendations expressed in this report are those of the author(s) and do not necessarily reflect the view of the Department of Justice, Office on Violence Against Women.

Acknowledgements

Special thanks to: Rachel Andron, Director of Programs, Legal Information for Families Today (LIFT); Michelle Ardabili, Chief Deputy Court Administrator, Sixth Judicial Circuit, Florida; Renee Danser, Deputy Director, The Self-Represented Litigation Network (SRLN); Cannon Han, former Senior Project Manager, Asian Pacific Institute on Gender Based Violence; Susan Keilitz, Principal Court Research Consultant, National Center for State Courts (NCSC); John King, Branch Chief, Family Court Self Help Center, District of Columbia; Leslie Landis, Court Administrator, Circuit Court of Cook County; Hon. Carolyn Minder, Domestic Violence Court Magistrate Judge, Fourth Judicial District, Idaho; Susan Pearlstein, Supervising Attorney, Family Law Unit, Philadelphia Legal Assistance; Alexandria Ruden, Senior Attorney, Legal Aid Society of Cleveland; Maureen Sheeran, Chief Program Officer, Family Violence & Domestic Relations, National Council of Juvenile & Family Court Judges; John Simpson, Assistant Supervisor, Family Court, Jefferson County Office of the Circuit Court Clerk; Lisa Zayas, Special Counsel for Program Initiatives, New York State Courts Access to Justice Program.

Contents

Introduction	3
How We Developed This Guide	
Fundamental Principles	
Training and Evaluation	
I. Applying The Fundamental Principles To Support Self-Represented Litigants: A Roadmap	7
Step 1	8
Before Coming to Court-Remote Information Gathering	
Step 2	11
Court House Welcome	
Step 3	13
Self-Help Centers	
Step 4	17
Remote/Electronic Filing and Participation in Hearings	
Step 5	19
Court Process and Forms	
Step 6	20
Legal Assistance	
Step 7	22
Courtroom Experience	
Step 8	25
Post-Issuance Assistance in Enforcement and Modification	
II. How to Get There	27
Technical Assistance and Funding Opportunities	29
Endnotes	31

Introduction

Introduction

This planning guide is intended to assist courts to better meet the needs of self-represented litigants in domestic violence cases.¹ It describes specific practices that courts can adapt to their needs, proposes ideas for enhancing existing programs, and suggests strategies for working with community partners in order to more holistically meet the diverse needs of domestic violence litigants.

The information and resources described in this guide are aimed at cases involving domestic violence, sexual assault and dating violence, with an emphasis on civil protection order and divorce/custody cases in which domestic violence is an issue. It builds on existing resources by emphasizing the safety, autonomy, and other unique needs of domestic violence victims, as well as rights of domestic violence respondents and defendants.²

This guide also provides a “roadmap,” describing strategies for courts to assist self-represented litigants during all stages of court process, from initial information gathering through issuance of a court order to post-issuance matters. Implementation of the strategies, as adapted to the unique needs of a community, will enable courts to promote procedural justice, enhance cultural and linguistic responsiveness, respond to trauma, and make it easier for self-represented litigants to navigate court processes in cases involving domestic violence.

How We Developed This Guide

The Center for Court Innovation convened a group of national leaders in developing and implementing programs designed to assist self-represented litigants.³ We asked them to spend a day and a half with us identifying some underlying core values or fundamental principles, as well as critical strategies that are particularly useful in responding to domestic violence cases.

Additionally, we collected examples from courts around the country that are working hard to improve access to justice for self-represented litigants in domestic violence cases.

Fundamental Principles

In our discussion, participants agreed that supporting self-represented litigants through domestic violence proceedings requires strategies based on three

fundamental principles:

- Procedural justice
- Cultural Responsiveness, Elimination of Bias and Language Access
- Trauma Informed Services

These are briefly described here, with cites to additional guides:

Procedural Justice

The following are core elements of procedural justice:

Voice (opportunity for people to be heard): For self-represented litigants in domestic violence cases, being able to speak out (if they so choose) and to be heard and acknowledged by the judicial officer and other court actors is especially important: for victims, who may have encountered other professionals who ignored or minimized their experiences, it increases the likelihood that they will perceive the court as a place that could provide help; for alleged perpetrators, research demonstrates that a feeling of being heard during the proceeding increases their perception of fairness and, as a result, the likelihood that they will comply with court orders.

Respect (perception by people that they are treated with dignity): Judicial officers, court staff, and other professionals who interact respectfully with litigants contribute greatly to a perception of fairness in the process.

Understanding (comprehension of the court process and how decisions are made): Self-represented litigants in domestic violence cases report that they are confused by court procedures, the language used by the court, and other aspects of their cases.

Neutrality (perception by people that decision making is free from bias): Some judicial officers and court personnel have expressed concern that providing domestic violence-specific resources and assistance for litigants may breach the court's core responsibility to be neutral, or may create a perception of non-

neutrality. To address this concern, this guide includes strategies for developing policies and practices that effectively meet the needs of domestic violence victims while maintaining the court’s neutrality. Neutrality does not mandate identical services and support for all litigants; indeed, it requires that all litigants should be provided with meaningful information and support designed to assist them in their particular circumstances with their specific needs.

Helpfulness (whether people perceive court actors as interested in their personal situation to the extent the law allows): In many instances, the court is where a domestic violence victim first interacts with the legal system seeking information about available relief, services, and assistance.⁴ Therefore, self-represented litigant services designed to help people navigate the court process and connect them with critical services are key to promoting this principle of procedural justice and ensuring that victims view the court as a resource.⁵

Cultural Responsiveness, Elimination of Bias and Language Access

Cultural responsiveness may be defined as “the ability to learn from and relate respectfully with people of your own culture as well as those from other cultures.”⁶ A culturally responsive court will ensure that it is welcoming and truly accessible to individuals from all cultures within a community, including those from underserved or marginalized groups, and that court processes are perceived as fair and understandable. Research shows that when people perceive the legal process as fair, public trust in the courts increases. However, courts may find it more challenging to improve trust among marginalized communities who historically have lower trust in government systems due to historic oppression based on race or gender identity, disproportionate rates of incarceration and negative interactions with law enforcement and other legal actors. Promoting cultural responsiveness—including providing meaningful language access—and working to eliminate bias is critical to narrowing this trust gap.⁷

Responding to Trauma

One of the biggest challenges for courts in dealing with domestic violence cases is the widespread trauma experienced by the people involved, both in

their personal histories and through their interactions with multiple systems designed to help them. If courts can enhance procedures to account for trauma in the court environment and in their policies and decision-making, people will be better able to avoid re-traumatization, engage with the system, and take advantage of interventions. Raising awareness of the existence of trauma and the impact it has on peoples' experiences is essential to serving domestic violence victims and their families.⁸

Training and Evaluation

Training for judges, court staff and stakeholders on best practices for serving self-represented litigants should be incorporated into efforts to improve system responses. Training should include innovative approaches, incorporate principles of procedural justice, and be culturally and linguistically responsive.⁹

Ongoing evaluation of the system's effectiveness, especially from litigants' perspectives, should also be an integral part of the court's work. Particular attention should be paid to collecting data about self-represented litigants' experiences, including user satisfaction surveys, surveys of judicial officers, court staff, and other community members, as well as stakeholder focus groups, to provide a more in depth analysis of the gaps in service.

A useful evaluation activity to consider is to engage in a careful assessment of the individual steps and forms used in court processes, focusing on whether any component is needlessly complicated or burdensome, or even unnecessary. For instance, determine whether any affidavits required are really necessary, whether notarization is needlessly required for certain forms or pleadings, and whether court forms are overly specific, such that they are frequently misused and result in dismissals or rejection of forms because litigants are confused about their purpose. Courts should constantly strive to streamline their forms and processes and keep litigants' experiences with them at the forefront, as they work to make court processes as user-friendly and accessible as possible.

**I. Applying the
Fundamental
Principles to
Support Self-
Represented
Litigants:
A Roadmap**

Step 1: Before Coming to Court—Remote Information Gathering

Many self-represented litigants, including domestic violence victims, begin to gather information about legal options and other sources of assistance before they ever set foot in the courthouse. Courts should consider implementing a range of strategies to assist them during the initial information-gathering period. In addition to explaining to self-represented litigants the legal relief available through a court action, such information should describe potential sources of support for victims' ancillary and holistic needs (for instance, victims may need economic support, physical and mental health services, childcare, education and/or job training, and other forms of assistance for themselves and their children). For victims considering divorce or custody cases, information should be available describing how domestic violence is taken into account in judicial decision-making, including the crafting of parenting arrangements (custody and visitation). Several options are described below, with guidance on how to design information sources to best help victims of domestic violence investigate the legal relief available to them and other potential resources.¹⁰

Key Strategies

1. **Develop web-based services:** many courts operate online information resources for self-represented litigants, providing such services as web-based instructional materials (including videos), downloadable or online fillable petitions and other court forms, often in multiple languages, and contact information for court and community services. Electronic filing (or e-filing) of petitions and motions is increasingly available as well (see below for guidance regarding e-filing). Domestic violence-focused online self-help centers often provide specific information about protection orders and the process for obtaining them, as well as other specialized information tailored to victims' needs, including information about filing for custody/visitation and accessing economic relief.
2. **Consider using Lawhelp:** many jurisdictions use the resource www.youtube.com/channel/UCkqFZ_bPV8WahSpEtKqrnpQ to provide information

to self-represented litigants, in most cases including a subsection devoted to domestic violence cases with information developed by legal service providers and links to key resources. Any online resource for domestic violence victims should include such links, to help victims access sources of support beyond the court, including advocacy and safety-planning services, and community resources that can assist with economic, educational, child-care, health, and other needs of victims and their children.

3. Provide telephone services for litigants that do not have internet access: in addition to online resources, self-help centers in some jurisdictions provide extensive assistance to litigants via telephone, thus providing access to many people who cannot use the internet or travel for in-person assistance.

Examples of Remote Information Gathering

- *In Multnomah County (Portland), Oregon, the court has created a series of videos to run on line and in the court house to assist self-represented litigants with all aspects of the process. See www.youtube.com/channel/UCkqFZ_bPV8WahSpEtKqrnpQ.*
- *The Alaska Family Law Self-Help Center provides all of its non-web-based services by telephone after conducting research on its efficacy.*

4. Leverage community resources to increase access to the courts: one effective strategy to facilitate access to information regarding court processes and available legal relief is to take advantage of resources based within the communities in which the targeted populations live. Locations such as community and/or law libraries, legal clinics, human services agencies, shelter programs (domestic violence and homeless facilities), public health centers, and places of worship may be used as distribution points for self-represented litigant materials, translated into the relevant languages.

5. Establish remote locations in order to increase access to communities where there are physical barriers to accessing the courts: many jurisdictions are struggling to serve communities where there are physical barriers to accessing

Tips for ensuring web-based services are comprehensive and accessible:

- Ensure content is comprehensive, current, and written for a lay audience
- Any assessment provided based upon the user's input of information is described in terms of problems, not laws
- Links and/or referrals are provided to support services in the courthouse and the community
- Online and written materials comply with national accessibility standards
- Online and written materials are designed with access and use by community organizations and others in mind

the court. Litigants with disabilities may lack access because of the challenge of getting around. Others live far from the court house and face barriers because of work schedules, child care and the cost of transportation. Courts are increasingly addressing such barriers to access by establishing remote locations or mobile legal assistance centers, through partnerships with legal services organizations and other community-based providers.

Examples of Remote Services

- *In New York City, the New York State Courts Access to Justice Program and the New York Legal Assistance Group (NYLAG) partnered to create the Mobile Legal Help Center, a “legal services office and courtroom on wheels.” NYLAG attorneys provide counseling, advice, and direct representation from the vehicle, and video conferencing provides access to the court for emergency hearings, including domestic violence cases. See www.dccourts.gov/services/domestic-violence-matters/intake-centers*
- *In Washington, D.C., the Superior Court has partnered with DC SAFE (a community-based advocacy organization), law enforcement, the prosecutor's*

office, and others to provide remote access to the court from a satellite Domestic Violence Intake Center located in a medical center in Southeast D.C. See <https://www.dccourts.gov/services/domestic-violence-matters/intake-centers>

Step 2: Court House Welcome

What happens when litigants walk through the court house doors—the greeting and assistance they receive, their ability to read any signage, and other aspects of the experience—is critical to how accessible the court process will be and whether people will view the court as a useful resource. The following are some important aspects of a court house welcome that should be considered in assessing and improving overall helpfulness and access.¹¹

Key Strategies

1. Develop a welcome center, concierge or help desk: some family courts have created a user-friendly center, which welcomes people upon entry to the courthouse and provides information and assistance with identifying and gathering the materials and forms necessary to file a case. Staff can provide assistance on a variety of litigant needs, including helping to identify necessary forms, making referral to legal and advocacy services (which, ideally, are located in the courthouse), directing litigants to courtrooms and other offices, providing informational materials about court processes and services, etc.
2. Make sure your staff are well trained: dedicated, multi-lingual staff (or those who have ready access to interpretation services) who are trained on domestic violence can help litigants navigate court processes and reduce litigants' confusion.
3. Establish a courthouse presence for community-based service providers: encourage such providers, especially domestic violence advocacy programs, to locate services within the courthouse by providing space and other support.
4. Enhance procedural justice by ensuring clear and helpful signage: accessibility can be enhanced by rethinking signs in the courthouse. Clear

signage can help create a welcoming environment, help court users navigate more easily, and communicate rules and procedures clearly and respectfully. In addition to the use of highly legible, clear, and friendly text in signage, courts can provide users with directories and maps to aid in navigation.¹²

5. Establish child-care centers and other family-friendly services: providing litigants with a free child-care facility within the courthouse provides access to court for parents who cannot find alternative arrangements for their children while they have business at the courthouse. Centers should be staffed by trained, certified (or licensed, as required by law) employees and should be secure.

Tips for improving litigant experience and services throughout the courthouse

- Update multilingual signage throughout the court house welcoming litigants and providing guidance for navigating the building
- Locate a welcome center, help-desk, or the equivalent where it can be seen immediately after entering the building or passing security
- Staff the center at all times of significant court user volume with well-trained volunteers who can direct users to the right place and who are trained in treating all users with respect and showing no bias
- Ensure that staff is knowledgeable in the most common language spoken and is culturally responsive
- Have available multilingual maps of the courthouse, program referrals, and other basic introductory materials to hand out
- Train staff to make appropriate referrals to resources both inside and outside the courthouse
- Support the staff's work by installing well-considered and placed signage throughout the courthouse complex

Tips for ensuring the safety of all litigants, court staff, and others

- Comfortable waiting areas, with separate space for the opposing parties, should be available throughout the courthouse, including in conjunction with courtrooms, self-help centers, and other court service providers' offices.
- Courts can take steps to protect litigants before and after court hearings, through such means as staggered departures (with abusers exiting first, followed by the victim several minutes later), providing litigants with information regarding how to navigate parking lots, public transportation, etc. when arriving and departing from the courthouse.

Example of Court House Welcome Services

- *Multnomah County (Portland), Oregon, the family court offers litigants in domestic violence cases an opportunity to work with a Court Navigator, who, among other activities, provides information about what to expect at court hearings, explains case timeframes, identifies case milestones, contacts litigants about future court dates, refers litigants to required classes and or mediation, explains post judgment procedures, and develops safety plans as needed.*

Step 3: Self-Help Centers

Self-help centers are offices located in the court that serve as a central place for providing information and assistance to domestic violence victims.¹³ They should be easy to locate, fully integrated into courthouse operations, and supervised by attorneys so that any dissemination of legal advice is properly provided. Self-help centers can provide a variety of services, including assistance drafting petitions, staff to explain forms and procedures, written materials on how cases are processed, information to assist self-represented litigants throughout the litigation, and referrals to civil legal and other community services.¹⁴

Key Strategies

1. Consider how to provide legal advice and/or representation through your Self Help Center: some self-help centers provide legal advice and consultation services through partnerships with service providers who staff the centers on a part-time basis. In some instances, the service providers may offer full representation to the litigant or make referrals to other organizations.
2. Consider a differentiated service model: careful deployment of a self-help centers' limited resources, based on particular needs, can result in more assistance for more individuals. For instance, individual self-represented litigants can meet briefly with a staff member who quickly determines the level of assistance needed. Where simple referral to a set of forms is sufficient, that can be done quickly, while other individuals who need explanations of processes or who need legal advice or representation can be referred to the appropriate staff or volunteers for assistance. Under such a model, it is not assumed that each self-represented litigants needs to have a time-consuming meeting to obtain the assistance they need.

Tips for self-help services

- Self-help centers should be supervised by experienced attorneys; ideally, such attorneys are trained in domestic violence and trauma-informed service provision
- Support staff should be highly knowledgeable and trained on legal matters and domestic violence
- Support staff should receive training and ongoing support regarding the provision of information to litigants without engaging in unauthorized practice of law or violating neutrality or other professional and ethical standards

Tips for self-help services (continued)

- Staff should be multilingual (or able to use language line), and centers should use appropriate multilingual signs and provide written multilingual informational materials on all major topics to complement one-on-one services
- Centers should provide a variety of services, including initial assessment, one-on-one assistance, and workshops
- Centers' work should be well-integrated into all relevant aspects of court management and operations and the larger legal services community
- Centers should obtain ongoing feedback from the bench and litigants on the centers' work and engage in other efforts to evaluate effectiveness
- Non-dedicated self-help centers without trained staff should not provide assistance on domestic violence cases, but rather should provide appropriate culturally specific referrals to advocacy programs, legal services, pro se domestic violence clinics, etc.
- Centers should consider integrating limited license legal technicians into their operations, where available (see "Legal Assistance" below for more information)
- Centers should provide remote access for litigants from domestic violence shelters, advocacy agencies, etc., so that victims do not have to travel to the courthouse to obtain services and assistance
- Centers should develop and provide brochures and information packets on court processes (what to expect, how to dress, how to address court, etc.), available relief for victims of domestic violence, how to support requests for relief, how to enforce orders, etc. (these materials may be made available at welcome centers and by remote means, as described above)

Examples of Self Help Centers

- *Supreme Court of Colorado, Office of the Chief Justice, Directive Concerning Colorado Courts' Self-Represented Litigant Assistance* www.courts.state.co.us/Courts/Supreme_Court/Directives/13-01.pdf
- *Massachusetts Supreme Judicial Court Steering Committee on Self-Represented Litigants, Serving the Self-Represented Litigant: A Guide by and for Massachusetts Court Staff* www.mass.gov/courts/docs/serving-self-rep-guide.pdf
- *Texas Office of Court Administration, Legal Information vs. Legal Advice: Guidelines and Instructions for Court Personnel Who Work with Self-Represented Litigants in Texas State Courts* www.txcourts.gov/media/1220087/legalinformationvslegaladviceguidelines.pdf; www.txcourts.gov/programs-services/self-help/courts/
- *Maryland created a unified, statewide self-help center that provides greater access to litigants by means of telephone and live chat communication. See* www.srln.org/node/644/maryland-centralizes-district-and-circuit-court-self-help-while-expanding-phone-and-mobile.
- *The family court in Pittsburgh, Pennsylvania has developed a “tiered” approach to providing assistance to self-represented litigants through its self-help center, in which different levels of services are provided in response to self-represented litigants’ particular needs, from referral to a “forms bank,” to an explanation about a court process, to a meeting with an attorney where legal advice was sought. The court found that this model resulted in significantly greater efficiency and the ability to serve many more litigants. For details, see* www.srln.org/node/643.
- *Cuyahoga County, Ohio has a Domestic Violence department within the courthouse staffed with a coordinator, two community based advocates, a program manager and a compliance staff. There are three dedicated magistrates, one of whom is primarily focused on post protection order enforcement.*
- *Cook County (Chicago), IL maintains a help desk and intake center within its civil protection order court (the Domestic Violence Division) in which legal and advocacy services are co-located. Bilingual (English and Spanish) staff refer petitioners with needs related to their children to both on-site and community-based service providers, and provide other assistance.*

Step 4: Remote/Electronic Filing and Participation in Hearings

Electronic filing of pleadings has been implemented by a growing number of courts across the country. The benefits of so-called “e-filing” for the courts and attorneys are obvious: time and resource savings, enhanced access to court documents, and minimization of lost and misfiled documents, among others. But special considerations apply to e-filing in the context of domestic violence cases, especially when one or both of the parties are self-represented.¹⁵ To ensure that an e-filing system promotes and does not undermine the fundamental principles described above, courts should consider the following:

Key Strategies

1. Make sure people have the opportunity to connect with an advocate when they are filing remotely: an unintended negative consequence of e-filing, especially the ability to file a pleading from a remote location without the assistance of an advocate or attorney, is the likelihood that a petitioner/victim seeking court relief will never meet with one of the helpers available at a physical access point (in the court, generally). Consequently, e-filing systems should be designed, at the very least, to strongly encourage litigants to meet with an advocate or attorney before filing with the court.
2. Make sure kiosks do not replace human contact: even if the e-filing system is court-based (through a computer terminal or kiosk), courts should refrain from simply referring litigants to the system to complete their paperwork. Courts have found that the kiosks and terminals sit unused unless court staff or advocates actively engage with litigants during the process. Staff and other helpers must be comfortable with the use of the system in place for the process to be effective for litigants.
3. Consider how the use of technology can actually hinder access: technology should be understood as a means to support self-represented litigants, not as a substitute for litigants’ access to a person during the filing process. For some litigants, e-filing is manageable and efficient; for others,

including some who are suffering from trauma, such a system serves as a barrier to access.

Tips for using technology to assist litigants in domestic violence cases:

- Make sure technological alternatives/supports to the court process are voluntary: technological alternatives should be voluntary and made available for the convenience of litigants—not as a means of reducing court staff responsible for assisting litigants with the filing of court documents
- Designate and train staff to assist with technology: the use of technology in this setting requires specialized helpers, whether court staff, advocates, or others familiar with the system and available to assist people throughout the process
- Provide ways for litigants to access their documents: technology should be made available to enable litigants to download and print supporting documents they may have forgotten or have been unable to access on their own

Examples of Electronic Filing

- *Courts in several jurisdictions make e-filing options available to petitioners in civil protection order cases, including, but not limited to, New York (www.nycourts.gov/press/PDFs/PR16_14.pdf), North Carolina (www.nccourts.org/Citizens/JData/Documents/Technology_eFiling_Facts.pdf), Oregon (<https://oregon.tylerhost.net/SRL/SRL/>) and Virginia (www.courts.state.va.us/courtadmin/aoc/judpln/programs/afapo/home.html) (Virginia’s I-CAN system provides a Spanish-language interview process).*

Step 5: Court Process and Forms

Streamlining court processes, as well as the forms and other documents that people must file with the court, can dramatically improve access to justice for litigants in domestic violence proceedings.¹⁶ Courts should engage in a careful examination of their procedures, including how hearings are scheduled, to determine whether changes could be made to reduce the number of hearings or to eliminate litigants' need to spend hours at the courthouse to participate in hearings (or to make return trips as a result of adjournments or for other reasons). There should also be a clear process for notifying the court if unable to appear or to request a continuance.

Tips for streamlining court processes and forms:

- Determine necessity: court forms and other documents should be scrutinized to determine whether they truly are necessary for the process
- Plain Language: forms should be written in plain language and simplified in other ways
- Scheduling to maximize resources: consider working with legal and advocacy service providers to identify changes in court scheduling that can make it easier for such providers to assist and/or provide representation to litigants
- Litigant Feedback: courts should solicit feedback on their processes and forms from stakeholders and from the litigants, with an eye toward improving peoples' ability to effectively navigate the court system and obtain needed relief.

Examples of Simplified Forms

- *Washington State has engaged in a process to simplify its court forms. For a description of this process and the benefits of plain language forms, see www.srln.org/system/files/attachments/Improving%20Access%20to%20Justice%20DYer%20plain%20lang%20art%202013.pdf.*

Step 6: Legal Assistance

As stated above, since 3 out of 5 litigants in civil cases nationally are self-represented, communities are finding creative ways to provide legal assistance short of full representation and have come up with many ideas to fill the gaps left by a lack of access to lawyers. While full legal representation for all litigants who desire a lawyer is optimal, less comprehensive but more readily available forms of legal assistance may make a real difference for victims. Courts can encourage other stakeholders to create new options for legal assistance, help attract volunteer attorneys, and play other leadership roles in this area.

Key Strategies

1. Engage the bench: judges and courts can play a crucial leadership role in recruiting volunteer attorneys to assist with domestic violence cases. For instance, courts can sponsor training programs on civil protection order practice that offer free continuing legal education credits in exchange for participants' participation in pro bono programs.
2. Encourage the development of a range of options for legal assistance, which may include:
 - Full legal representation on a pro bono or reduced fee basis
 - Limited-scope, or “unbundled” legal services focused on a subset of self-represented litigants' legal needs (may include pre-hearing counseling, assistance with drafting legal forms, assistance with filing a case, preparation for hearing, post-hearing counseling, and information regarding how to enforce orders)¹⁷
 - Legal advice offered by attorneys in pro se clinics, self-help centers, and “attorney-for-the-day” programs
 - Ongoing support (without legal advice) for litigants with family court cases, including one-on-one assistance with preparation for court hearings, such as helping to organize documents, explaining legal processes and procedures, offering an opportunity to practice the presentation, and explaining what information the court is seeking

- Work by Limited License Legal Technicians, non-attorneys who receive training and are licensed to consult and advise clients, assist with the completion and filing of court documents, and provide other, non-attorney services
- 3. Partner with community based organizations: consider locating pro se clinics and similar services within the community being served (shelters, hospital, social services agencies, places of worship, and other locations). This can dramatically increase access for individuals, especially those who are underserved
- 4. Ensure that attorneys providing pro bono advice and/or representation, and the supervising organization, adhere to the relevant best practices¹⁸

Examples of Legal Assistance

- *Legal Information for Families Today (LIFT) in New York City provides comprehensive, ongoing support for litigants throughout their family court cases, including preparation for court hearings, explanations of procedures, and other practical assistance. See www.liftonline.org/about/what-we-do for additional information. LIFT is planning to expand its services to include legal advice and representation in the coming months.*
- *Detailed information regarding Washington State’s Limited License Legal Technician Program may be found www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-license-legal-technicians/become-a-legal-technician*
- *See the Chicago Bar Foundation’s Pro Bono Checklist for general information regarding effective pro bono projects (<http://chicagobarfoundation.org/pdf/pro-bono/checklist.pdf>);*
- *In Winnebago County, IL, under the leadership of their Supervising Judge, the court partnered with the local Legal Aid Organization to provide attorneys to victims in cases where the offender had representation in order to address power imbalances presented in those situations*

Step 7: Courtroom Experience

Judges and court staff can take a number of steps to ensure that self-represented litigants in domestic violence cases experience the courtroom as a safe environment that adheres to all of the tenets of procedural justice (voice, respect, understanding, and neutrality), and that is culturally responsive, linguistically accessible, and trauma-informed in its actions.

Key Strategies

1. Encourage engaged neutrality from the bench: judges who strive to ensure procedural justice in their courtrooms should consider employing a posture of “engaged neutrality,” sometimes referred to as “neutral engagement.” This approach recognizes that it is possible for judges to remain active and engaged with self-represented litigants (as opposed to passive) while remaining neutral and unbiased in their handling of the case and in making decisions. In domestic violence cases involving self-represented litigants, practicing engaged neutrality can help judges to mitigate the obstacles faced by victims who are afraid to speak out and provide information on their case. It can also compensate for the imbalance of power that often exists between the victim and the offender. If judges do not address this imbalance by establishing consistent policies designed to treat everyone the same and to obtain and provide the best information possible, there is a risk that the offender will control the flow of information to the judge. There are also common misconceptions about the way that victims behave in the court room that can negatively impact decision making, such as not following through on the case or displaying anger or defensiveness. By practicing engaged neutrality, judges can overcome these barriers, ensure a neutral process for all parties, and make more informed decisions.

2. Consider establishing informal hearings to make it easier for self-represented litigants to litigate their own cases: some courts are developing an option for litigants with domestic relations cases to participate in a non-traditional, informal trial called an Informal Domestic Relations Trial (IDRT). If both parties agree, they may choose an IDRT instead of a traditional trial. In an IDRT, only the judge asks questions of both parties (no cross examination)

and the rules of evidence do not apply. In general, no witnesses are permitted (except, in some circumstances, expert testimony), and attorneys, if present, address only legal issues, not factual ones.

Techniques employed by judges practicing engaged neutrality include:

- Indicating at the outset the procedures to be used, how the hearing will be conducted, and the legal issues to be addressed
- Explaining any evidentiary rulings and other legal issues, such as burden of proof
- Taking steps to elicit the information needed for decision-making, including by allowing parties to make opening statements or give an overview of their case
- Using non-confrontational questioning to elicit details (e.g., “tell me more about . . .” or “give me some specific details about . . .”)
- Treating each party in the same manner
- Using plain language where possible; explaining any necessary “legalese”
- Being liberal in allowing the parties to make amendments
- Granting continuances so that parties may get legal assistance or gather evidence
- Providing parties with an opportunity to be heard by specifically asking if there are questions or anything else parties want you to know before adjourning their case

Example of Informal Domestic Relations Trial Model

- *The Deschutes County Circuit Court in Bend, Oregon engaged in a pilot project to establish IDRTs for divorce, separation, child custody, parenting time, and child support cases and found that cases involving domestic violence appear to be particularly well suited to the IDRT process: “The IDRT rules allow the victim to introduce medical and law enforcement reports without having*

to call a witness to establish foundation. Additionally, the IDRT process allows the victim to avoid cross-examination by the perpetrator, and the judge is able to maintain a level of control in directing the lines of inquiry and focus of the trial, thus mitigating the inappropriate exercise of power and control by a perpetrator during the conduct of the trial.”¹⁹

- *Deschutes County developed informational materials for domestic violence litigants explaining the process and helping them to determine whether it would work for them given the nature of the abuse and coercive control they have experienced*
- *The IDRT model will soon be adopted throughout Oregon, and similar models have been used or are under development in other states, including Alaska and Idaho.²⁰*

Tips for enhancing responses to self-represented litigants in the courtroom.

- Explain court procedure, orders and forms both from the bench and in writing in plain English (i.e. clear, concise and straightforward language that avoids overly technical jargon or Latin)
- Ensure that family members, community members, and children are not used as interpreters in the courtroom
- Hire police officers, court staff, attorneys, and advocates able to perform their professional role in multiple languages (not to be used as interpreters)
- Train court staff and judges on promoting procedural justice and trauma-informed practices

Step 8: Post-Issuance Assistance in Enforcement and Modification

The decision to enforce, modify or withdraw a protection order is complicated even with access to legal counsel. Therefore, courts should examine their processes for providing assistance to self-represented litigants post disposition and ensure that they maximize informed decision-making, safety and autonomy for victims, as well as clarity for the other side regarding his or her responsibilities and options for modification.

Increasing self-represented litigants' understanding of and ability to navigate the enforcement process for court orders addressing custody and visitation generally has not been an area of focus for courts. Even courts that devote significant resources to assisting litigants with the process for obtaining a protection order provide little information about making the complicated decision about whether and how to pursue enforcement of orders. This lack of guidance is particularly harmful to undocumented immigrant victims as lack of legal status can contribute to additional fear of seeking legal enforcement. We encourage courts to implement strategies for assisting self-represented litigants with the unique procedures and legal implications of the enforcement process, utilizing the strategies discussed below to promote greater understanding and access to enforcement options.

Key Strategies

1. [Develop informational packets](#): describing the processes for modification and enforcement of orders (including enforcement through a contempt proceeding and through the criminal process by means of arrest and prosecution).
2. [Consider scheduling compliance review hearings](#): they can alleviate the burden of requiring victims to pursue enforcement when abusers violate court orders; such hearings are especially effective in ensuring compliance with court directives regarding the surrender of firearms, participation in court-ordered programs, and satisfaction of child-support obligations, among others.
3. [Consider implementing a specialized docket for post-issuance matters](#)

Examples of Post-Issuance Assistance in Enforcement and Modification

- *Examples of information packets for litigants addressing enforcement and/or modification include the following: “Contempt of Court in Family Law Cases: The Basics,” (Northwest Justice Project, Washington State) (available at www.washingtonlawhelp.org/resource/contempt-of-court-in-a-family-law-case-the-ba)*
- *“Family Court Matter: Instructions For Request To Have Other Party Held In Contempt of Court,” (Minnesota Judicial Branch) (available at www.mncourts.gov/mncourtsgov/media/CourtForms/DIV1401.pdf?ext=.pdf)*
- *“Enforcement of Visitation Orders,” (Nebraska Supreme Court Committee on Self-Represented Litigation) (available at supremecourt.nebraska.gov/self-help/families-children/enforcement-visitation-orders)*
- *“Developing and Enforcing Your Parenting Plan,” (Multnomah County (OR) Superior Court) (available at: www.courts.oregon.gov/Multnomah/docs/FamilyCourt/DevelopingAndEnforcingYourParentingPlan.pdf).*
- *In Maine, Pine Tree Legal Services has developed an online course addressing modifications and enforcement of parental-rights orders. See <http://ptla.org/change-enforce-maine-divorce-parental-rights>.*
- *Among several other jurisdictions, Wisconsin has developed a compliance-review process for determining whether respondents in protection order cases have surrendered their firearms as required under the order and to take appropriate action to address non-compliance. For a description of the process, see www.bwjp.org/resource-center/resource-results/wisconsin-firearms-surrender-protocols.html*
- *For a video describing the use of compliance-review hearings in the context of civil protection orders in Louisville, KY, see www.courtinnovation.org/research/promoting-compliance-domestic-violence-cases-morning-judge-jerry-bowles.*

II. How to Get There

Planning for how to improve services and experiences for self-represented litigants in domestic violence cases should involve an assessment of what the needs and gaps are for those accessing your system. Consider conducting a system-wide needs assessment of your jurisdiction's response to self-represented litigants. There may be opportunities to modify or enhance existing policies and practices, as well as to develop new programs to better respond to the unique needs of litigants in domestic violence cases. There are a variety of strategies that can be utilized to assess your system's response, including the following:

Key Strategies

1. **Walk-throughs:** an instructive method for judges and court staff to better understand peoples' experiences with the court is to conduct a "walk-through" of the court's physical space, with participants interacting with court personnel and service providers as if they were litigants.
2. **Surveys and focus groups:** obtaining the perspectives of litigants, attorneys, court staff, judicial officers, victim advocates, and others regarding court processes is a component of an effective needs assessment. Anonymous surveys and focus groups of key stakeholders are two productive strategies for this work. As always, courts should strive to make surveys and focus groups as accessible and inclusive of all community populations (including limited English proficient and under-served groups) as possible.
3. **Court Watch:** court watch programs, generally conducted by non-court monitoring organizations that observe court proceedings on an ongoing basis, are found in communities throughout the country. Most issue reports regarding such things as judicial demeanor and communication, adherence with best practices regarding safety, compliance with legal requirements, and others. Based upon the findings, most programs make policy recommendations for the court and other community stakeholders, and work with them to make improvements.

Examples of How to Assess and Improve Services for Self-Represented Litigants

- *As part of the Family Court Enhancement Project, funded by the Office on Violence Against Women, U.S. Department of Justice, the Multnomah County (Portland), Oregon Superior Court has engaged in an ongoing effort to take steps to improve peoples' perceptions of procedural justice in the court. Surveys conducted before and after changes were implemented provided the court with insight into their success.*
- *The Domestic Violence Division of the Cook County (Chicago), Illinois Circuit Court, conducted surveys of professionals and litigants, including victims identified by advocacy agencies who chose not to seek relief from the court, in multiple languages.*
- *An example of a longstanding, volunteer-based court watch program focused on domestic violence cases is Courtwatch Montgomery, in Montgomery County, Maryland. See the organization's website at <http://courtwatchmontgomery.org> for examples of the activities and reports of an active court watch program.*
- *The King County Sexual Assault Resource Center in Seattle, Washington is a trusted partner of the King County Superior Court and, among other activities, provides confidential feedback to most of the judges on such issues as courtroom decorum, accessibility, and treatment of the parties to sexual assault cases. For further information, see www.kcsarc.org/courtwatch.*

Technical Assistance and Funding Opportunities

The Center for Court Innovation provides assistance to court systems seeking to enhance their handling of domestic violence cases and improve outcomes for victims and children.

With support from the United States Department of Justice's Office on Violence Against Women, the Center is able to provide a variety of technical assistance services, including:

- Assistance building successful, multidisciplinary planning teams;
- Intensive, on-site work with individual courts in all stages of planning and implementation;

- Practitioner-to-practitioner guidance, in which Center staff, drawing on their extensive hands on experience creating and running domestic violence courts, help other jurisdictions to learn from each other;
- Site visits to domestic violence courts (including Office on Violence Against Women designated mentor courts);
- Guidance with creating strong judicial compliance reviews, promoting victim safety, and developing effective partnerships with other agencies; and
- Model documents, assessment and evaluation tools, and publications of special interest to a domestic violence court audience both nationally and internationally.

Please contact the Center for technical assistance on enhancing services to self-represented litigants at dvinfo@cci.org.

Endnotes

1. The Self-Represented Litigation Network (SRLN) estimates that 61% of litigants in civil cases (about 3 in 5) are without counsel. Data from states that track the percentage of Self-represented litigants indicate that domestic relations, and especially domestic violence protection order cases, have even higher levels of self-representation. This gap in representation has a particularly disproportionate impact on domestic violence victims, low-income litigants, and people of color.
2. For an example of a comprehensive, non-domestic violence focused tool see A Model for a Comprehensive Self-Assessment of Court Programs to Assist Self-Represented Litigants (Self Represented Litigation Network and National Center for State Courts 2007) (available at www.srln.org/system/files/attachments/A%20Model%20for%20Comprehensive%20Self-Assessment%20of%20Court%20Programs%20to%20Assist%20Self-Represented%20Litigants_0.pdf)
3. Special thanks to: Rachel Andron, Director of Programs, Legal Information for Families Today (LIFT); Michelle Ardabili, Chief Deputy Court Administrator, Sixth Judicial Circuit, Florida; Renee Danser, Deputy Director, The Self-Represented Litigation Network (SRLN); Cannon Han, former Senior Project Manager, Asian Pacific Institute on Gender Based Violence; Susan Keilitz, Principal Court Research Consultant, National Center for State Courts (NCSC); John King, Branch Chief, Family Court Self Help Center, District of Columbia; Leslie Landis, Court Administrator, Circuit Court of Cook County; Hon. Carolyn Minder, Domestic Violence Court Magistrate Judge, Fourth Judicial District, Idaho; Susan Pearlstein, Supervising Attorney, Family Law Unit, Philadelphia Legal Assistance; Alexandria Ruden, Senior Attorney, Legal Aid Society of Cleveland; Maureen Sheeran, Chief Program Officer, Family Violence & Domestic Relations, National Council of Juvenile & Family Court Judges; John Simpson, Assistant Supervisor, Family Court, Jefferson County Office of the Circuit Court Clerk; Lisa Zayas, Special Counsel for Program Initiatives, New York State Courts Access to Justice Program.
4. For further information on ensuring a courtroom experience that is responsive to the needs of all litigants on domestic violence cases and consistent with the tenets of procedural justice, check out the following resources: Handling Cases Involving Self-Represented Litigants: A Benchguide for Judicial Officers (Judicial Council of California Administrative, Office of the Courts, Center for Families, Children & the Courts) (available at www.courts.ca.gov/documents/benchguide_self_rep_litigants.pdf) Curriculum: Access to Justice for the Self Represented (National Center for State Courts and Self-Represented Litigant Network) (available at www.srln.org/node/202/judicial-curricula-access-justice-self-represented) Procedural Justice: Practical Tips for Courts (Center for Court Innovation) (available at www.courtinnovation.org/research/procedural-justice-practical-tips-courts) Integrating Procedural Justice in Domestic Violence Cases (Center for Court Innovation) (available at www.courtinnovation.org/research/integrating-procedural-justice-domestic-violence-cases)

5. Potential measures of helpfulness include: Does the court's website provide accurate and user-friendly information to court users? Do court staff provide information to court users about how to navigate the building and where to find necessary forms? Are judicial officers familiar with resources available at local social service providers and do they make voluntary referrals when appropriate? See *Measuring Perceptions of Fairness: An Evaluation Toolkit* (Center for Court Innovation 2008) (available at www.courtinnovation.org/sites/default/files/documents/P_J_Evaluation.pdf)
6. *Culturally Responsive Pedagogy and Practice* (National Center for Culturally Responsive Educational Systems 2008) (available at www.niusileadscape.org/docs/pl/culturally_responsive_pedagogy_and_practice/activity2/Culturally%20Responsive%20Pedagogy%20and%20Practice%20Module%20academy%202%20%20Slides%20Ver%201.0%20FINAL%20kak.pdf)
7. SRLN completed a remote services study which may be useful here: www.srln.org/node/997/report-resource-guide-serving-self-represented-litigants-remotely-srln-2016. Examples of some good websites include the VLAS triage tool: www.srln.org/node/654/va-legal-aid-societys-new-online-triage-system-dramatically-realigns-staff-resources and the VA Access to Justice Commission Self-Help Website: <https://selfhelp.vacourts.gov/> built using the Open Advocate platform: <http://openadvocate.org/>.
8. The following are resources on making your court more trauma-informed: www.nasmhpd.org/sites/default/files/JudgesEssential_5%201%202013finaldraft.pdf; www.flcourts.org/resources-and-services/court-improvement/family-courts/judicial-toolkits/family-court-toolkit/; <http://traumastewardship.com>
9. The following tip sheet can be used to help plan training: www.courtinnovation.org/sites/default/files/documents/DV_Training_Guide.pdf
10. See also the Self Represented Litigation Network, which provides extensive information about multiple strategies that may be employed and how to maximize their effectiveness: www.srln.org/system/files/attachments/Remote%20Guide%20Final%2008-16-16_O.pdf
11. Ensuring safety in cases involving domestic violence is a fundamental responsibility of the court, and safety considerations should guide the design and implementation of all facets of the court experience for litigants. Focused effort should be made to protect victims and their children, especially those who are self-represented and unfamiliar with the courthouse and its processes.
12. Courts should recognize the tension, however, between implementing strong, highly visible (and intrusive) safety measures and the need to avoid further traumatizing susceptible individuals and creating an intimidating environment. For specific examples of effective signage and how to engage in a collaborative process to improve existing signage, see the report by CCI at www.courtinnovation.org/sites/default/files/documents/Red%20Hook%20OctoberFinalProofed_REDUCED%20%281%29.pdf
13. Please note that in many courts the self-help center and intake/welcome desk are combined into one office, while in others the self-help center is a separate entity. Either approach can be effective, but should be

designed with litigants' needs, safety, and convenience in mind.

14. For information about best practices for implementing a self-help center, consult the following resources: www.srln.org/taxonomy/term/276 www.nycourts.gov/ip/nya2j/pdfs/NYSA2J_BestPracticesHelpCenter.pdf
15. Some courts couple e-filing in protection order cases with video technology to enable petitioners to appear before the judicial officer for the hearing on the emergency, ex parte order remotely from a victim services organization or other safe location. For a discussion of e-filing and other remote-access strategies, including information about efforts in Multnomah County (Portland), Oregon and New Jersey, see https://gallery.mailchimp.com/2b792a26f1afbd00af90506c8/files/TA_Bulletin_summer_2016.pdf
16. For leading expert's perspective on simplification of court processes to better serve self-represented litigants, see Richard Zorza, "Some First Thoughts on Court Simplification: The Key to Civil Access and Justice Transformation," 61 Drake Law Review 845 (2013), available at www.zorza.net/Simple.pdf. For guidance regarding process simplification, see Best Practices in Court-Based Programs for the Self-Represented: Concepts, Attributes, Issues for Exploration, Examples, Contacts, and Resources (SRLN 2008) (available at www.srln.org/system/files/attachments/SRLN%20Best%20Practices%20Guide%20%282008%29.pdf).
17. The American Bar Association's online Unbundling Resource Center provides extensive information on the effective provision of unbundled/limited-scope legal services: www.americanbar.org/groups/delivery_legal_services/resources.html.
18. See the Center for Law and Public Policy on Sexual Violence's Tools for Pro Bono Recruitment: A Resource Guide for guidance regarding programs addressing sexual violence, much of which is relevant in the domestic violence context (<https://law.lclark.edu/live/files/6468-tools-for-pro-bono-recruitment-a-resource-guide>). In addition, for practice standards applicable to lawyers in pro bono programs, see Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases (American Bar Association 2007) (www.americanbar.org/content/dam/aba/administrative/domestic_violence1/20110419_aba_standards_of_practice_dv.authcheckdam.pdf).
19. William J. Howe III and Jeffrey E. Hall, "Oregon's Informal Domestic Relations Trial: A New Tool to Efficiently and Fairly Manage Family Court Trials," 55 Family Court Review 70 (2017) (available at <http://onlinelibrary.wiley.com/wol1/doi/10.1111/fcre.12263/full>).
20. See *id.*

Center
for
Court
Innovation

520 Eighth Avenue
New York, NY 10018
p. 646.386.3100
courtinnovation.org