



## Newsletter of the NOW Foundation Family Law Advisory Committee Spring 2022

### A WORD FROM THE COMMITTEE

*This newsletter from the NOW Family Law Committee addresses the issues of Judicial Training in Domestic Violence and Recommendations for Improvements to the Delivery of Justice for Victims of Domestic Violence & Their Children.*

The National Domestic Violence Hotline is 800-799-7233 (800-799-SAFE). You can call them from anywhere in the United States. You can chat live from here: [Get Help | The National Domestic Violence Hotline \(thehotline.org\)](https://www.thehotline.org)

### AN URGENT NEED FOR MANDATORY UP-TO-DATE DOMESTIC ABUSE AND TRAUMA-BASED TRAINING FOR FAMILY COURT JUDGES

**By Renee Beeker, Chair  
Now Family Law Advisory Committee**

Family Court judges' rulings have long-lasting effects on families.

It has been increasingly evident that domestic abuse is a severe issue brought before a family court judge. The state-by-state data on the percentage of women and men who will experience domestic violence in their lifetime can be found here. <https://worldpopulationreview.com/state-rankings/domestic-violence-by-state>.

Research each state's data on "When Men Murder Women" at the Violence Policy Center:

[When Men Murder Women | Violence Policy Center \(vpc.org\)](https://www.vpc.org/when-men-murder-women)

See a 24-hour snapshot of domestic violence services provided – gathered by the National Network to End Domestic Violence:

[Resource Library - NNEDV](https://www.nnedv.org/resource-library)

When families are in crisis, children are often witnessing and are victims of the violence in their homes. The resulting trauma can have lifelong effects on children. A judge's failure to grant a protective order can result in the loss of a

parent's life, often the mother, and the life of a child. A judge's failure to take domestic violence seriously can result in a violent parent having unsupervised visitation with a child. Often, this can result in injury or death to the child due to the parent's desire to continue controlling their partner.

Complaints about the family court are often followed with "Judges need more training." Concerns about training usually include the question, what kind of training are judges given? What is taught and by whom? Is there a focus on domestic abuse and violence, stages of child development, attachment, and childhood trauma? Does the public know what type of education local family court judges are getting to support the need to protect victims and families that come before them in crisis?

We found it challenging to determine what training judges receive because there are differences in the varying states, statutes, and local rules. Below are some issues discovered.

#### Judicial Training Concerns

- Is training on domestic abuse and child protection required and current?
- Do they receive statutory updates?
- What topics are covered?
- Who conducts the training?
- Is the training experiential?
- Is evidence-based training available and in use?
- How and is the public informed of judicial training? Can the public offer input suggestions?
- How many hours of actual training on domestic violence, coercive control, and post-separation abuse are judges receiving?

The topics below are being discussed by legislative bodies and advocacy groups around the country. Especially with domestic violence coercive control legislation being passed in California, Hawaii and Connecticut (where it is known as Jennifer's Law) and with such laws under consideration in other states. It is critically important that these domestic abuse issues be immediately added to Judicial training in every state and jurisdiction:

- Adverse Childhood Experiences (ACE Study)
- Lethality Assessment Protocol
- Coercive control is the foundation of abuse. Domestic abuse is not always seen but may be hidden with control of funds, privacy, and autonomy to make decisions, work, or travel, to name a few.
- Understanding DARVO (Deny, Attack, Reverse Victim and Offender). Abusers often use this tactic with police and in court.
- Eight Stages Progression to Domestic Homicide, Jane Monckton Smith

When a litigant comes forward with a domestic abuse/violence complaint in the family court, judges must stop labeling the case as a "high conflict," or "parental alienation," or refuse to "believe" a parent (most often a woman/mother) who is reporting abuse or fear of harm. Judges should step back and evaluate the report as a "red flag, a warning" and evaluate. It could be a matter of life or death.

The term "High Conflict" gives judges permission to divert their view/opinion from a possibly dangerous situation, often interpreted as "mutual violence."

Post-separation coercive controlling abuse is often not recognized by the courts, but should be. That is usually a method to escalate abuse through harassment, court filings, stalking and other forms of abuse.

Parental Alienation is the term used most often by fathers' rights organizations to deflect the court from seeing or even evaluating the possibility of abuse. This is used to accuse mothers of interfering with a father's relationship when she may well be trying to protect herself and her child/ren.

Women repeatedly report judges do NOT believe them. Additionally, they report their attorneys won't bring forward evidence of domestic violence or judges will not admit the evidence.

Family court judicial trainings should address all of these knowledge gaps and misconceptions. Here are some additional resources and information that would be helpful in developing those judicial trainings:

*ACES study (Adverse Childhood Experiences).*

<https://www.cdc.gov/violenceprevention/aces/index.html>

*VAWA on lethality (Violence Against Women Act).*

<https://vawnet.org/material/lethality-assessment-tools-critical-analysis>

"Warning signs present in 1 and 3 homicides of intimate partners" CBC investigation.

<https://www.cbc.ca/news/canada/warning-signs-intimate-partner-homicide-1.6269761>

*"Coercive Control The silent partner of domestic violence."*

<https://www.cbc.ca/news/canada/nova-scotia/relationships-domestic-violence-control-1.6271236>

*"Coercive Control The silent partner of domestic violence."*

[https://nnedv.org/latest\\_update/domestic-violence-public-health-concern](https://nnedv.org/latest_update/domestic-violence-public-health-concern)

*"Domestic Violence: a public problem and public health concern."*

<https://www.tandfonline.com/doi/full/10.1080/10926771.2020.1774695>

Jane Monckton Smith “*Intimate Partner Femicide Using Foucauldian analysis to track the eight stage Progression to Homicide.*”

<https://journals.sagepub.com/doi/10.1177/1077801219863876>

Jane Monckton Smith “*Homicide Timeline Online learning portal.*”

<https://homicidetimeline.dreams-lms.com/>

*MANDATORY DOMESTIC VIOLENCE TRAINING FOR JUDGES.*

[https://rcdvcpc.org/index.php?option=com\\_mtree&task=att\\_download&link\\_id=50&cf\\_id=39](https://rcdvcpc.org/index.php?option=com_mtree&task=att_download&link_id=50&cf_id=39) 2014 Study by National Council of Juvenile and Family Court Judges study

Properly Accounting for Domestic Violence in Child Custody Cases: An Evidence-Based Analysis and Reform Proposal.

<https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1218&context=mjgl>

## **THE STATE OF AFFAIRS in Domestic Abuse and Child Molestation Cases in Family Court in Most States**

**By Adele Guadalupe**

Families are being harmed by Family Court decisions. Many Judges are not taking domestic violence or child abuse seriously when making custody decisions. Many children are being placed with the abusive parent and are being deprived of their protective parent due to erroneous or arbitrary decisions by the court.

In most states, once judges are appointed or voted in, they are never reviewed again. According to Court Watchers over a period of nearly 20 years, most civil courtrooms have been corrupted by cronyism and collusion. Fathers who contest custody rulings are given more credence than mothers who have been the protective parent. In contested custody cases, approximately 75% of abusers, who are wealthy, come from wealthy families, have power and/or influence, win custody of their children. Because fathers were encouraged to be more active in child rearing, this caused the courts to lean over backwards to ensure fathers were involved. This had led to the assumption that 50/50 custody was best. The family courts in accepting that premise, has ignored the fact that many fathers commit domestic violence and child abuse. Evidence of these patterns are not considered by many judges when awarding custody and visitation to these fathers.

This can be remedied by changing the laws to include the following suggestions:

1. Forming an Independent Judicial Review Board, made up of citizens from all walks of life. They can receive complaints against judges, attorneys and so-called professionals that are court appointed. These can be made public and reviewed fairly. This board must have the authority to hold those in the system accountable for their misconduct.
2. Prohibiting public campaigning and campaign contributions for judges by attorneys. Such contributions should be deemed a conflict of interest.
3. Setting firm rules for the administration of justice in all courts, including Family Court. Rules that include due process, evidentiary hearings and the adherence to all laws that apply to other courts. No rulings or findings shall be made without first implementing these tools of the court.
4. Implementing affordable or pro bono attorneys to represent litigants in Civil Court as well as Criminal Court. Chief Justice Labarga of the Florida Supreme Court has acknowledged the necessity for this and formed a committee to address this injustice in a press release he then published calling the civil court system “broken.” Needless to say, this committee has not, to this day accomplished any of its goals.
5. Final Rulings must include findings of fact and conclusions of law explaining why they have been determined. In many cases this isn't being done or is assigned to the attorney who represents the parent who is given custody.
6. Creating laws that discourage the adversarial nature of family court as it is today.  
For example:
  - a. Forming a statewide mediation system that is mandatory for all divorce cases except for cases screened out of involuntary mediation because of domestic violence. The courts would be used for only the most contentious cases.
  - b. Take winning or losing out of the equation where children are concerned, by focusing on the best interests of the children, allowing both parents consistent access to the child, and eliminating any mandatory or presumptive joint or equal custody laws. Any custody orders must consider domestic violence and the safety of the parents and children before making these orders.

- c. Follow up promptly when a parent is in serious or continuous contempt of court. Violations of court orders are sometimes ignored when the judge favors one parent over the other.
7. Making a jury trial mandatory in criminal cases where spousal or child abuse or molestation is alleged. An evidentiary hearing is necessary to determine the validity of the charges, unless there is a suitable plea bargain agreed to by the non-violent/abusive parent that protects both the endangered child and spouse.
  8. Not ordering permanent child support until verifiable financial statements, pay stubs, or other documents proving the incomes, such as Income Tax Returns, of both parents for the past 3 years are presented to the court within 90 days and actually reviewed by a non-partial accountant who then makes a presentation to the judge. Parents not supplying such documents within the time frame ordered by the court should be held in contempt of court immediately.
  9. Training volunteers to be Guardians ad Litem instead of hiring attorney GALs. These GALs should have major training in psychology, parenting and child abuse. The child must be interviewed by the GAL without either parent being present. The GAL must spend an equitable amount of time with each parent or report to the court in writing and for the record why they did not. A formal report must be made available to the parent or their attorneys before admitting it into evidence. GALs should not make a custody determination or recommendation to the court. The GALs should be able to call witnesses so that the witness testimony can inform the court. The GALs should not testify as to hearsay.
  10. Put **all** non-opposed civil judges whose terms have expired up for a retention vote, so that politics are removed from the judicial process.
  11. Mandate that all courtrooms have equipment for voice and/or video recording. All judges must turn equipment on for all hearings and trials, must make sure all participants are speaking to be heard, including the judge, and then make the recordings available to litigants for a nominal fee.
  12. All Judges sitting on benches that hear cases involving custody of children must take mandatory refresher courses every two to three years. Especially in psychology, domestic violence, stalking, coercive control and child abuse. The protocol for understanding is changing every year and these judges must have up to date training. Even Real Estate agents must take refresher courses every two years. Certainly, judges who make life altering decisions must be properly trained.

Adele Guadalupe is a Founder of Families Against Court Travesties, Inc. (FACTs), a Member of National NOW Family Law Committee and a National Organization for Women Board member.

### **A Call to Action**

Investigate whether particular types of training are required for judges in your jurisdiction. These requirements may be found in state statutes or in court rules of various kinds. An internet search of your state name and “judicial training” “required” or “mandatory” may turn up results.

Please contact us with your findings. We would love to hear from someone from every state.

Inform yourselves and work within your community to make sure initial and annual ongoing training on domestic violence (and topics discussed in this newsletter) is required for judges in family court and criminal court and for judges who may be reassigned to those courts.

### **General Information on Family Courts**

A clearinghouse of materials the committee has compiled can be found at the NOW Foundation website at this link, <http://now.org/now-foundation/crisis-in-family-courts/>. [Resources | National Organization for Women \(now.org\)](#) There are additional materials at the Chapters only website on the NOW Inc. website.

The Family Law Advisory Committee's Brochure the Family Courts (Updated 2021) is available here: <https://now.org/wp-content/uploads/2021/07/NOW-Family-Law-Committee-Brochure-2021.pdf>

**To reach the Family Law Committee, please email: [famlaw@now.org](mailto:famlaw@now.org)**