



# Considering Domestic Violence and Parenting Time for Never- Married Parents

White Paper

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# Considering Domestic Violence for Never-Married Parents

## Importance of Parenting Time for Non-Custodial Parents

Each year in the United States, more than 1.5 million children are born to unmarried parents.<sup>1</sup> Although research indicates that parenting time for non-custodial parents improves the emotional support and well-being of children, there are no federal guidelines to establish *parenting time* arrangements for children born to unmarried parents.<sup>2</sup>

This policy environment has created an inconsistent treatment of parenting time in different states. Many times, child support orders established by the public child support system do not include a corresponding parenting time order or arrangement.

In addition, while assistance is commonly available to establish paternity and child support can, from the state child support agency, unmarried parents have few resources to help establish parenting time arrangements

## Intimate Partner Violence

Survey data collected by the Child and Family Research Project (CFRP) reported that 20 percent of mothers experience relationship violence from the fathers of their child.<sup>3</sup> Further findings from these surveys indicated highly prevalent under-reporting of domestic violence (DV) and that many victims who do not have a formal child support order and would like one.

The Office of Child Support Enforcement has recommended several best practices for enhancing safe access to child support<sup>4</sup>.

1. Establish and maintain partnerships with DV service providers;

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<sup>1</sup> Martin, Joyce A., et al. (2013). Births: Final data for 2012. National Vital Statistics Reports, 62(9).

<sup>2</sup> National Conference of State Legislators (2016). child Support and Parenting Time Orders. Downloaded <http://www.ncsl.org/research/human-services/child-support-and-parenting-time-orders.aspx>

<sup>3</sup> Child & Family Research Partnership (2014). Relationship Violence and Paternity Establishment: Mapping the Policy Implications. Downloaded at <https://childandfamilyresearch.utexas.edu/relationship-violence-and-paternity-establishment-mapping-policy-implications>

<sup>4</sup> Office of Child Support Enforcement (2015). Information Memorandum to State and Tribal Agencies Administering Child Support Enforcement Plans under Title IV-D of the Social Security Act and Other Interested Parties. Safe Access to Child Support Services: Scope of the Issue Downloaded at <https://www.acf.hhs.gov/css/resource/safe-access-to-child-support-services-scope-of-the-issue>

2. Provide multiple opportunities using multiple modalities to promote disclosure of DV and related safety concerns;
3. Develop safe and confidential responses to domestic violence disclosures and meaningful referrals for expanded services;
4. Enhance legal practices to promote safety-informed establishment and enforcement of orders;
5. Train all child support and judicial/administrative hearings staff using domestic violence training curriculum specifically tailored to the child support process; and
6. Expand public education and outreach about child support processes to promote informed, empowered decisions by victims.

The Safe Access Inventory complements these recommendations to support implementation of safe access to child support services.<sup>5</sup> This inventory provides guidance for establishing ongoing, active collaborations with local, regional, or state DV experts. The process begins with a reflection process that then focuses on capacity building for safe services.

## Guidance to Courts to Establish Safe Parenting Time

The U.S. Department of Justice has provided 16 principles to guide Courts when considering family violence when establishing parenting time orders.<sup>6</sup>

1. Courts and allied professionals should make decisions and issue orders regarding child custody and parenting time that effectively address domestic violence by accounting for

## SAFE ACCESS INVENTORY

- Identify policy & procedures that need to be revised or developed
- Build capacity to provide safe and effective child support services to survivors
- Create clear avenues for receiving and responding to feedback from victims and DV advocates on agency practices
- Connect child support's efforts to secure financial and emotional support for children to the economic justice work of the DV community.

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<sup>5</sup> Downloaded at

[https://www.acf.hhs.gov/sites/default/files/programs/css/enhancing\\_safe\\_access\\_inventory.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/enhancing_safe_access_inventory.pdf)

<sup>6</sup> Hansen, B. (2017). Child Custody Decisions in Cases Involving Domestic Violence: Guiding Principles. <https://www.justice.gov/archives/ovw/blog/child-custody-decisions-cases-involving-domestic-violence-guiding-principles>

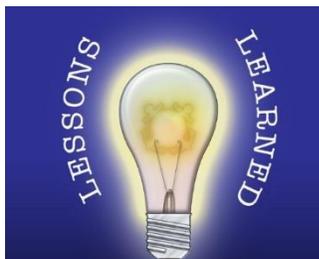
the nature and context of the abuse and its implications for children and parents.

2. Courts should provide direct and timely access to the courts for child custody and parenting time relief, including temporary relief and enforcement of child custody and parenting time orders.
3. Courts should respond to the urgent need for relief in child custody and parenting time cases involving domestic violence by prioritizing these cases and deciding them without delay.
4. Courts should assure that judges have access to relevant court-documented domestic abuse history, consistent with governing ethical standards and in a manner that assures due process for all litigants.
5. Communities and courts should take steps to maximize parties' ability to obtain domestic violence-informed legal advice and representation regarding child custody and parenting time matters.
6. Courts and providers of child custody and parenting time dispute resolution services should utilize processes that account for domestic violence and are safe, fair and accessible.
7. Courts and professionals should assure that party participation in child custody and parenting time processes and services is informed and as voluntary or party-determined as possible.
8. Communities and courts should provide all parties in child custody and parenting time cases with access to information concerning:
  - a. Available resources, including community resources and child custody and parenting time dispute resolution processes and services.
  - b. The relief available from courts, including the legal and practical effects of the relief and the risks and benefits associated with the relief.
  - c. The legal process and their rights, including the legal standards applied to child custody and parenting time decision-making, the meaning of legal terminology, the roles and responsibilities of judges and professionals and the parties' rights and access to recourse and review.
  - d. How to navigate court and parallel processes, including how to prepare for participation in those processes and how to avoid involuntary case dismissal.
9. Communities and courts should create opportunities for safe and informed disclosure of domestic abuse in child custody and parenting time matters.

10. Communities and courts should provide parties with access to support services, including domestic violence advocacy, in child custody and parenting time matters.
11. Courts and communities should recognize the critical and emergent nature of family law matters by providing sufficient and appropriate staff, resources and ongoing training to the professionals who manage these cases.
12. Courts should evaluate, on an ongoing basis, whether the publicly provided descriptions of child custody and parenting time processes and services match the services actually provided.
13. Communities and courts should evaluate, on an ongoing basis, the extent to which the custody decision-making processes and services provided effectively address domestic violence by accounting for the nature, context and implications of abuse.
14. Communities and courts should evaluate, on an ongoing basis, whether custody decision-making processes and services are consistent with these guiding principles and work collaboratively to address any deficiencies.
15. Communities and courts should ensure that their processes and services related to child custody and parenting time cases are consistent with evidence-based best practices.
16. Communities and courts should ensure that processes and services are truly accessible to everyone in the community, including those from under-served communities (e.g., immigrant populations, non-English speaking and limited English proficiency individuals).

These principles are available to be adapted to the needs of the local community and incorporate the needs of all stakeholders in the system – judges, attorneys, advocates and allied professionals (such as guardians ad litem, evaluators, mediators).

## Parenting Time Opportunities for Children



In 2012, Monroe County was awarded a Parenting Time Opportunities for Children Grant aimed at learning how to safely and effectively establish parenting time orders (PTOs) in child support programs. The grant supported Monroe County Circuit Court to formalize the process of incorporating parenting time orders into child support. The previous, more informal process to establish PTOs was formalized. The new process established that with every paternity affidavit, there is a discussion in court related to parenting time orders and an order is issued, even if only to record a

dispositional agreement and provide instruction for the circumstance that the agreement would need to be amended later. In terms of DV, before the grant, only Orders for Protection (past or pending) and observed behaviors in the courtroom helped to determine if the parents had issues of DV. After the grant, referral materials to community services, including Intimate Partner Violence (IPV) services, were disseminated to all parties participating in the grant.

The mixed method evaluation included individual interviews, surveys and structured court interviews (of parenting time quality), focus group interviews of stakeholders, and extant data extracts of court records.

### Intake Interviews

The Mediator's Assessment of Safety Issues and Concerns (MASIC) screening interview<sup>7</sup> was adapted for in-person screening of custodial and non-custodial parents after a case was created but before the Child Support (CS) Petition Hearing. The Project Manager or Middle Way House Legal Advocate conducted these individual, private interviews a week prior to the scheduled CS hearing. Based on the results of the screening, the interviewers made a recommendation to the court for one of three legal paths through the legal process of establishing a PTO.

*Path A:* Indicated no current or historical evidence of violence. The interviewer recommended the case proceed through the typical PTO protocol in Court to establish a Dispositional PTO. The interview did not recommend any limitations the Judicial officer's inquiries regarding parenting time issues while parties are in the presence of each other.

*Path B:* Indicated a history of moderate violence. The interviewer recommended the Judicial officer order the case to mediation with instructions to complete family violence screening and consider appropriate accommodations to mediation process.

*Path C:* Indicated evidence of current violence or history of heavy violence. The interviewer recommended that the Judicial officer order a civil investigation prior to determining parenting time issues.

### Addressing IPV

The grant supported four essential tools to build a safer, more consistent treatment of IPV.

1) Partnership-building support between the Court, Child Support, and DV advocates

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<sup>7</sup> Holtzworth-Munroe, A., Beck, C. J. A. and Applegate, A. G. (2010), The Mediator's Assessment of Safety Issues and Concerns (MASIC): A Screening Interview for Intimate Partner Violence and Abuse Available in the Public Domain. *Family Court Review*, 48: 646–662. doi:10.1111/j.1744-1617.2010.001339.

- 2) Use of a DV screening tool administered by paid staff after a paternity petition but before the Initial Hearing
- 3) Use of mediation to support families when IPV or relationship issues are a concern
- 4) Limited number of civil investigations

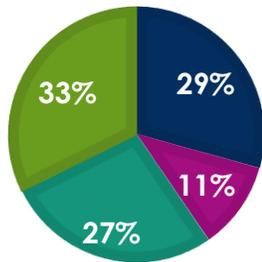
**Outputs**

- 300 Families Screened and Provided Resources
- 166 Cases Identified for Mediation or Civil Investigation
- 260 Parenting Time Orders
- Updated Child Support Application, Training, and Procedures for domestic violence

**Key Findings**

- ✓ There were no differences in rates of PTOs related to the recommended path. More than 80% of eligible cases screened culminated in a PTO.
- ✓ DV is prevalent in the IV-D population. Across the 300 cases that were screened, staff recommended about 27% for Path B (mild or moderate DV history) and 33% for Path C (current and/or serious violence issues were indicated).

**PERCENT OF CASES WITH HISTORY OF VIOLENCE**



- Unknown
- None
- Past - Mild or Moderate
- Current - Serious

- ✓ The observed differences in Child Support payments between cases with and without a PTO were not statistically significant.
- ✓ The average cost for DV screening was \$6.75.
- ✓ Non-Custodial parents enjoyed positive parenting experiences. Of the 57 families who participated in a follow-up survey, 95% reported being satisfied with their relationship with their children

## Conclusions

In the past, the Court and Child Support was challenged when considering domestic violence issues because of a lack of a formalized process identifying cases in the system. Staff were not trained in identifying intimate partner violence (IPV), there was no protocol for responding, and information about community resources was not readily available.

Working with the grant has allowed for some practices to become institutionalized. In the past, caseworkers (from the Prosecutor's office) or Prosecutors could assign a flag for internal use if indicators of domestic violence (DV) were overtly indicated or noticed. After a case was filed, the protocol allowed for checking for protective orders. Court staff had general awareness of DV issues, and if something was noticed during the court proceeding that might indicate domestic violence, shuttle mediation or other practices were employed, but these remedies were not systematically implemented. Finally, DV advocates might be invited by clients as emotional support or as a legal advocate, but otherwise were not systematically integrated in the process. There were few referrals to DV services. When Indiana required the orders of child support for anyone requesting state assistance, the DV community was very concerned about the ramifications for the population they serve. The PTOC grant provided an avenue to protect that population.

At the conclusion of the PTOC grant, the Monroe County PTOC Grant was characterized by strong collaborative relationships between agencies within the court system as well as with domestic violence and family-service organizations in the community.

The policies and practices of the grant have been developed with a focus on inclusiveness and mutual respect between stakeholders. Partners report positive experiences working to develop the protocols and materials for the grant. There was a consensus that the resulting cultures, policies, and practices have resulted in a system that more consistently and positively addresses the needs of the population impacted by family violence.

## RECOMMENDATIONS

- 1) Take a holistic approach. Address parenting time when discussing child support to improve consistency.
- 2) Use civil investigations to discuss, identify, and act accordingly to DV issues.
- 3) Provide community DV resources to every pro se litigant.
- 4) Cultivate relationships with DV advocates, Child Support, and community stakeholders to identify local issues and find ways to address them.

## IMPACT

- ◆ Better coordination between entities around family violence.
- ◆ Staff more aware and better prepared to respond to DV
- ◆ Families seemed to feel like they had more of a voice in the process.