

Family Court Enhancement Project

By: Tawnie L. Langenfeld

Vignetteⁱ

Imagine you are a 35 year old woman who has been married for 15 years. You have three children ages 5, 8, and 14 and are devoutly religious. You work part-time while the children are at school.

One evening, during an argument, your husband calls you a stupid whore. Another night, your husband takes your cell phone, looks through your call history then breaks the phone. He says you are no longer allowed to have a cell phone. He says if you leave him, you'll be sorry. You talk to your religious leader about what has been happening at home. He reminds you that you have made a promise before God to stay in this marriage for better or worse.

You could continue to live at home. You could take the children to a shelter for victims of domestic violence, but there is only one shelter within 100 miles of your home and you can only stay for one month. You could take the children and rent an apartment or stay at a hotel, but those costs are more than you can afford on your own. You could stay with a friend or find yourself homeless with three children.

You decide to leave home after picking up the children at school. You are not able to take anything with you or he will know you plan to leave. You need money for new clothing, food, gas, and housing. But, you learn that your husband has cancelled your ATM and credit cards.

You take the children to the shelter for victims of domestic violence. Your son feels uncomfortable with all of the women and girls, so he returns home with your husband. Since then, he has been begging you to come home every night. He asks why you are doing this to him. You don't know what to tell him.

You see your husband's car outside your job and he calls constantly while you are working. Your boss tells you that if it continues, she's going to have to fire you. You obtain a temporary restraining order. A hearing for a permanent order is scheduled in seven days, but you cannot get the time off. You have to choose between attending the hearing and losing your job. Without your job, you have no way to support your children. You chose your job and the temporary order is dismissed.

Vignette Debrief

This exercise was created to illustrate the barriers survivors of domestic violence face and to increase awareness of the complex considerations that accompany a survivor's decision to leave or remain in an abusive relationship.

Although Courts cannot control all outcomes in domestic abuse situations, they can and should improve Family Court processes so that navigating the legal system does not serve as an

additional obstacle in survivors’ quest for safety. In addition, training opportunities exist for court personnel and service providers to improve identification of domestic violence in Family Court cases, better understand the nature and context of abuse, consideration for what the abuse means for the issue before the court, and account for the abuse in their handling of the cases. The Family Court Enhancement Project (FCEP) is one way in which the Fourth Judicial District – Hennepin County (herein ‘Hennepin County’) Family Court is attempting to meet these goals.

Project Overview

In November, 2013, Hennepin County’s Family Justice Center was one of four national sites selected by the Department of Justice’s Office on Violence Against Women to participate in the Family Court Enhancement Project. Other sites include Circuit Court of Cook County, Chicago, Illinois; Multnomah County Family Court, Portland, Oregon; and Family Court of the state of Delaware. Organizations collaborating with the four sites on the FCEP include the Department of Justice’s Office on Violence Against Women (OVW), the National Council of Juvenile and Family Court Judges (NCJFCJ), and the Battered Women’s Justice Project (BWJP).

Hennepin County’s project Management Team is made up of the following members:

Name	Affiliation
Honorable Anne McKeig	Presiding Judge, Hennepin County Family Court
Honorable Robert Blaeser	Chief Judge, White Earth Nation, Retired 4 th Judicial District Judge
Honorable Mary Madden	4 th Judicial District Referee, Family Court
Brenda Langefellow	4 th Judicial District Family Court Operations Manager
Katie Brey	4 th Judicial District Senior Administrative Manager
Renee Meerkins	Director, Hennepin County Family Court Services
Laurie Kusek	Program Manager, 4 th Judicial District Guardian Ad Litem
Mary Dilla	Supervising Attorney, 4 th Judicial District Self-Help Service Center
Marcy Podkopacz	Director, 4 th Judicial District Research and Business Practices Div.
Matt Johnson	Research Analyst II, 4 th Judicial District Research and Business Practices Div.
Liz Richards	Executive Director, Minnesota Coalition for Battered Women (MCBW)
Lolita Ulloa	Senior Managing Attorney, Hennepin County Domestic Abuse Service Center (DASC)
Tawnie Langenfeld	Project Coordinator, 4 th Judicial District, Family Court Enhancement Project
Shannon Meaders	Administrative Assistant, 4 th Judicial District, Family Court Enhancement Project

In addition, a Collaborative Work Group (CWG) of approximately twenty-five key partners from various organizations has been formed to collaborate on the project. Hennepin County agencies represented on the CWG include: the Guardian ad Litem program, Domestic Abuse Service Center, Self-Help Center, Domestic Fatality Review Board, Department of Health and Human Services, Domestic Violence Coordinating Counsel, Human Services and Public Health Department - Child Support Services, and County Attorney’s Office – Child Support Division. Additional partners include private and legal aid family law attorneys, ADR providers,

advocacy agencies, mental health providers, supervised parenting time providers, and White Earth Tribal Court.

In October, 2014, Hennepin County received a two-year \$400,000 grant to assist with execution of the project's two phases: a three month Planning Phase, and a 21 month Implementation Phase.

Phase I - Planning Phase

During the first three months of the award, Hennepin County identified the following four challenge areas to focus on during the implementation phase of the project:

- 1.) **Challenge Area #1:** There are inconsistencies in the identification of domestic violence, assessment of its nature, context and implications for parenting time, and accounting for abuse in decisions among family court practitioners, specifically Judicial Officers, Guardians ad Litem, Family Court Services staff (mediators/ENE providers), private mediators/ADR providers, Self-Help Center staff, family lawyers, advocates (including DASC advocates), and child protection.
- 2.) **Challenge Area #2:** Parties are often encouraged to participate in Early Neutral Evaluation (ENE) or other Alternative Dispute Resolution (ADR) processes in non-domestic abuse family court proceedings. The concern is that parties may feel pressured to: 1) participate in ENE or other ADR processes even if it is inappropriate for them and/or 2) settle custody and parenting time disputes in those processes even when the proposed or agreed-upon parenting arrangements do not account for domestic violence and its implications for parenting. Addressing this challenge must occur on three levels: 1) how parties are referred to ENE/ADR; 2) each party's understanding of their respective rights and needs; and 3) whether ENE providers and other ADR providers are properly screening and handling cases involving domestic violence.
- 3.) **Challenge Area #3:** Survivors of domestic violence frequently do not have the representation, advocacy, or information that would allow them to access the relief they and their children need from family court.
- 4.) **Challenge Area #4:** Native American survivors of domestic violence do not seek access to family court to protect their safety and the safety of their children, or to seek relief regarding their custody and parenting time issues.

To get a better understanding of each challenge area, 11 roundtables were conducted with both provider and participant groups. Providers were identified as Attorneys (both private and legal aid), Advocates, Guardians ad Litem, Family Court Services (mediators/ENE providers), and Child Protection. Participant groups included survivors of domestic violence as well as men participating in anger management and support groups. Five of the participant groups included the Native American community. Roundtable attendees were asked a series of uniform questions drafted by the Management Team and many of the sessions were co-facilitated by Technology of Participation (ToPs) trained facilitators for uniformity.

Broadly, the provider roundtables revealed several recurring themes including: inconsistency from provider to provider in how cases are handled, confusion between and among providers in regard to roles and duties, variation in screening for domestic violence, its nature, context and implications for parenting, and how abuse is accounted for in practitioner's actions and decisions.

Roundtables comprised of Family Court users including survivors of domestic violence revealed a need for education on topics such as: overall court process (where to go for what), relief available in Family Court, rights of the parties, ENE/ADR processes, custody, child support, and co-parenting basics, and the effect domestic violence has on children.

In addition, during the planning phase, a survey of Judicial Officers was drafted for launch during the project's implementation phase. The survey consisted of 19 questions on barriers to financial relief, parenting time, paternity, scope of testimony and temporary custody granted during Order for Protection (OFP) hearings (and encountered during signing of *ex parte* OFPs).

Finally, the Management Team partnered with the 4th Judicial District's Research and Business Practices Division to request the Judicial Council grant Family Court the ability to collect race data in MNCIS (the statewide court information system). In January, 2015, the Judicial Council granted the request. This capability will allow Family Court to identify disparities and areas for additional education and training and make necessary procedural changes to better serve all people seeking the assistance of Family Court. As of May 1, 2015, parties attending hearings and seeking services at the Domestic Abuse Service Center will be asked to provide information on their race and this data will be entered by FCEP staff into MNCIS.

Phase II - Implementation Phase

The FCEP's Implementation Phase began January 1, 2015.

The Judicial Officer Survey was launched on February 4, 2015 and had nearly a 75% response rate. Data collected from the survey will be used to identify areas for additional training and establishing best practices. Examples of such areas include: appropriate situations in which to grant financial relief as part of an OFP proceeding, the purpose of a Guardian ad Litem appointment, and scope of testimony allowed during hearings. A second survey of Judicial Officers will be created to examine practices for other Family Court proceedings (not involving OFPs) to determine how Judicial Officers screen for domestic violence and how they use the findings to determine whether the case is appropriate for alternative dispute resolution.

To address safety concerns raised during the roundtables, updates have been made to the Family Justice Center's Monitored Waiting Rooms (MWR) where parties wait for OFP hearings. Concerns were raised that the deputy kiosk was located down the hall from both Petitioner and Respondent MWRs. Petitioners voiced that from that location, they did not feel the deputy would be able to closely observe what was happening in the waiting rooms. The Management Team determined that the parties would feel safer if they knew the deputy was able to remotely monitor the rooms via camera feed. Signage was posted in both MWRs notifying parties of the

deputy's ability to monitor via camera. In addition, coverings were placed on two windows to prevent Respondents from seeing into Petitioners' waiting room while traveling down the hall.

Members of the Management Team visited the Brooklyn Integrated Domestic Violence (IDV) Mentor Court at the end of April. The Brooklyn IDV Court hears misdemeanor criminal domestic violence cases and related family law and divorce cases. The Management Team met with key stakeholders, learned how Brooklyn IDV has improved its response to domestic violence, and intends to utilize that information to pilot a specialized civil protective order calendar in Hennepin County.

In addition, members of the Management Team will visit White Earth Tribal Court to observe proceedings in Tribal Court and build relationships with practitioners within the Native community. Longer term, the hope is that data will be more readily available to both Courts through cross-registration of OFPs in both Tribal and District Courts and through cross-deputizing Judges for the ability to co-sign OFPs. Hennepin County is in the process of hiring a Liaison position to educate Native survivors, service providers, and advocates about the relief available from Family Court, provide community education, and serve as a point of contact between Tribal Courts, the Native Community and Family Court.

Long Term Plans

The Project is reviewing possible models for curriculum in order to pilot a batterer's intervention program. Possibilities include utilizing an existing batterer's intervention program and adding more specific education on parenting after violence or creating a new service offering.

The Management Team is considering how to bring "Court into the Community" with the goal of making Family Court more accessible to the Native community. This would entail holding hearings at a location other than the FJC such as the Division of Indian Work, Minnesota Indian Women's Resource Center or Little Earth.

Provider subcommittees are being formed including Family Law practitioners (private and legal aid), Guardians ad Litem, Child Protection, Family Court Services and private ENE/ADR providers, and Advocates. These subcommittees will be working to clarify roles and responsibilities, and identify inconsistencies in practices. They will also establish best practices with regard to accounting for domestic violence in cases in family court, understanding the nature and context of that abuse, considering what the abuse means for the issue under consideration.

A multi-day training will be held to bring all practitioner groups together to discuss processes, address frustrations, build community, and train on how to identify domestic violence, assess its nature, context and implications for parenting, and account for the abuse in their actions and decisions.

Ongoing roundtables will be held with both provider and participant groups to monitor the impact of changes the project has implemented, to continue to seek areas for improvement and to give a voice to people who seek the services of Family Court.

The Management Team held half-day planning retreats on March 27th and May 8th. In addition, the CWG met on May 8th to work through the next steps of the project.

Domestic abuse is a reality for many people. Ultimately, the FCEP aims to provide the parent in the vignette with the information necessary to make the best decisions possible. Having resources and a responsive Family Court experience will not completely alleviate the struggle survivors face, but it is hoped that these opportunities will provide survivors more options and less adversity.

ⁱ Adapted from Comings and Goings: Impact of Violence on Adult Victims and Assistance with Their Needs exercise (originally adapted from one created by the National Clearinghouse on Abuse in Later Life (NCALL)).

Tawnie Langenfeld graduated from William Mitchell College of Law in 2013 and was sworn to the Minnesota state bar in October, 2013. Her interest in the topic of Domestic Violence began while taking law school courses such as Comparative Domestic Violence and Policy and Child Protection Seminar. She began clerking for Judge Anne McKeig, presiding Judge of Hennepin County Family Court, in January, 2014. She transitioned into the Project Coordinator role for the Family Court Enhancement Project (FCEP) in October, 2014 and is presently working on this project.