

COVID-19 and Domestic Violence

Lessons from Court Responses

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 Center
for
Court
Innovation

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For more information about any of the information in this document, please email dvinfo@courtinnovation.org or visit dvcourts.org.

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Introduction

The COVID-19 pandemic has had an unprecedented impact on survivors of domestic violence. For many, the abuse increased in frequency and danger as stay-at-home orders and travel restrictions forced families to remain with the person causing harm through domestic violence.¹ COVID-19 also intensified the isolation experienced by survivors, making it difficult to access services and support.

Court systems and stakeholder agencies encountered tremendous challenges in staying open and providing access to critical services and forms of legal relief. Nearly overnight, courts were forced to adapt and integrate virtual technology into their processes, a herculean undertaking that had long been resisted due to concerns about court operations and ensuring due process.

This document attempts to capture some lessons learned from this difficult period and provides snapshots of innovative responses. In conversations with those working on domestic violence cases throughout the pandemic, the Center for Court Innovation heard stories of ingenuity, resilience, and dedication that helped survivors obtain the support and legal relief they needed despite the challenges. Communities also targeted strategies to hold the people causing harm accountable and prevent further violence through community-based services and support. Although imperfect, often ad hoc, and subject to frequent change, the processes put in place helped maintain services vital to survivors and their families. They offer possibilities for beyond the pandemic about how courts can safely and effectively expand access to justice in domestic violence cases.

Virtual hearings make courts more accessible to the public and build trust.

The sudden and widespread use of virtual hearings in domestic violence cases was a change many in the field have long advocated for. The benefits have been apparent for many litigants. Virtual appearances eliminate the time and cost of traveling to and from the courthouse and reduce the time in a courtroom waiting for a case to be called. It can mean the difference between having a job and keeping one because appearing virtually does not necessitate taking off a full day of work. Childcare is easier to arrange and manage. In domestic violence cases rife with safety concerns, these benefits are especially important. Recent unemployment is associated with an increased risk of homicide by an abusive partner. Survivors report financial insecurity and childcare as main drivers in their decision-making about how to keep themselves safe.

Early reports from court officials to the National Center for State Courts suggest that the ease and convenience of virtual hearings may result in improved appearance rates across all case types.² Virtual hearings also brought an added benefit of making it common for courts to schedule time-certain cases, a practice that continues through time-certain and block scheduling even as courts reopen because of the positive response from litigants, attorneys, and other stakeholders.

As courts resume in-person work, it is important to reconsider the traditional way of doing business, particularly in cases involving domestic violence. While it's true that virtual hearings take about a third longer than in-person hearings, it's also true that virtual hearings enhance access

for litigants and improve community trust.³ The Center recommends that courts:

- Maintain the option of virtual appearances for litigants to promote access, especially in emergency situations like civil orders of protection.
 - Plan for the likelihood of hybrid hearings going forward, in which some people appear in person and some virtually. This requires having staff manage the virtual platform and ensuring that in-person speakers are both visible on camera and speak into microphones so that everyone can hear each other.
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Remedies to Address the Digital Divide

Virtual hearings alone do not address all access to justice needs. Many places in the country lack strong broadband connection, particularly in rural and tribal areas. Other households cannot afford consistent or reliable Internet access. Legal service and advocacy agencies, libraries, and schools offered hotspots to households in need. In cases where victims did not have access to a phone or an email address and wanted to file a civil protective order in person, **Cuyahoga County, Ohio** authorized staff to meet victims at specified locations in the community to obtain information to process their petition.

Ada County, Idaho established a remote space with kiosks at a fairground for litigants who lack access to technology to participate in remote hearings. The large venue facilitates social distancing and enables use by more litigants than other available locations.

Meeting Language Access Needs Virtually

Courts still have a duty to ensure language access virtually. Some video platforms have the capability for separate audio channels so that interpreters can interpret simultaneously. This is preferable to consecutive interpretation where speakers have to frequently pause to permit the interpretation, which may impact its quality. Virtual hearings can enable courts to secure higher quality interpreters by sourcing from further-away locations and for languages that are less common to the area. In such situations, a virtual platform is preferable to a telephonic service because it permits interpreters to see the speakers and pick up on nonverbal cues that can aid the accuracy of interpretation. Facial expressions, posture, gestures, and tone all contribute to conveying meaning when communicating. Relying solely on telephonic interpretation forces the interpreter to rely only on auditory cues, creating a potential barrier to accurate interpretation. Just as virtual hearings have unique considerations, language access does too.

For more resources on language access in domestic violence cases, please visit the Asian Pacific Institute on Gender-Based Violence at <https://www.api-gbv.org/>.

Virtual hearings can improve the safety of survivors.

Virtual hearings have the potential to reduce many of the safety concerns associated with domestic violence cases, provided that adequate processes are put into place. At the courthouse, the physical presence of both parties means that there are ample opportunities for an abusive partner to harass, stalk, and intimidate a survivor in the courtroom, hallways, and parking lot. Online, it is equally important to set up barriers to prevent virtual contact.

Advocates reported that many victims feel safer and more empowered in virtual hearings because they do not have to be physically near an abusive partner. Still, a virtual hearing can be stressful and traumatizing. Victims may wish to change their video conference settings to speaker view so that they do not have to see their abusive partner's face while they are testifying. One attorney shared that she advises her clients to have a post-it note handy so that they can cover their abusive partner's face on the computer.

A question many courts faced early on was how to ensure that the public had open access to the virtual courtroom. For victims testifying about personal and traumatizing events, live streaming a court hearing to a potentially unlimited number of people anywhere was distressing. A best practice that arose was to set up a livestream in an empty courtroom at the courthouse. Any member of the public who came to the courthouse and wished to watch, was granted access.

To enhance safety in virtual hearings and services, the Center recommends that courts:

- Connect victims to advocates ahead of court hearings so that they can assist in creating a safety plan. Depending where a victim joins a hearing from, the abusive partner may be able to identify the location based on visual clues or background noise. The use of a virtual background and headphones can help reduce this risk for victims, as can joining from another location that is not where the victim lives.
- Permit advocates to join virtual hearings to provide emotional support to victims and use breakout rooms so that parties can confidentially speak to their advocates or attorneys.
- Use virtual waiting rooms so that parties are not in the same virtual space waiting for the case to be called.
- Disable the chat-box function so that the abusive partner cannot message the victim.
- Judges may wish to ask abusive partners to turn their devices around to confirm that they are not in the presence of the victim.
- Judges and court staff may also request that litigants turn their cameras off until their case is called. Courts may also “spotlight” or “pin” the videos of the active parties. This reduces the number of people displayed on the screen, so that court staff and security can better monitor for safety concerns.
- Train court staff (bailiff or court clerk) on how to run virtual platforms and assist with monitoring for safety.

Technology can improve communication and coordination among system players.

A coordinated community response (CCR) that fosters interagency coordination through policies and procedures among system players like courts, law enforcement, victim advocates, attorneys, and probation, among others, has been shown to have a measurable impact on improving responses to domestic violence. Maintaining a robust CCR during the pandemic was difficult as agencies scrambled to meet the immediate and evolving crisis. CCR meetings held on virtual platforms met regularly as a multi-disciplinary stakeholder group to discuss challenges and problem-solve to generate effective new processes and flexible ways to access legal relief. For some communities, the move to virtual meetings provided an opportunity to improve communication and engage members of the system who had been less involved in efforts previously. In fact, the pandemic catalyzed the creation of CCRs for the first time in many communities, such as Colorado Springs and Okanogan, Washington.

Of particular concern, especially in the early months of the pandemic, was the perception that closed courthouse doors meant the court itself was closed. In fact, courts were operational, but isolation and misinformation meant that victims were not able to access relief. Updating information on court websites was essential for getting the word out. Non-tech solutions also proved useful, such as posting flyers at grocery stores and pharmacies, as well as running radio and news announcements about how to access resources and services for domestic violence.

Alternative Means of Service

Seattle, Washington allowed alternative service methods by phone, text, email, and mail. This was permitted in all cases except those involving weapons surrender or an order to vacate, in which case in-person service was required. These tips outlined how to document alternative service:

- If phoning to discuss the order, read pertinent information from the order and consider recording the conversation. Ask for a cell phone number or email to send a copy of the order after the phone call as follow up.
- If texting the order, screenshot the text message exchange as proof of service.
- If emailing the order, turn on “read receipt” as an indicator of service, and keep electronic versions of the original email and read receipt.
- As a last resort, if mailing the order, include the address with the Return of Service, and consider using certified mail and attaching the return receipt.

Virtual Means of Accountability for Abusive Partners

Men Stopping Violence, a national leader in the abusive partner intervention field, coordinated with victim liaisons in their community before making any programmatic changes. While they ultimately decided to host virtual behavior change programming with special safety measures in place, they also hosted virtual daily check-ins with participants and offered two weekly drop-in sessions, called the Huddle, for

the national community of men to gather and share about various topics, support each other, and learn important coping strategies. They also encouraged community referrals during this time to anticipate the potential backlog of cases post-pandemic.

Virtual Means of Accountability for Abusive Partners Emerging Issues: Monitoring High-Risk Defendants

Many courts across the country struggle with implementing effective compliance in domestic violence cases, especially those with high levels of risk towards the survivor and their families. The pandemic created further challenges with compliance, although some sites used their CCR to come up with creative strategies.

In **Stearns County, Minnesota**, the probation department coordinated with the court to schedule compliance hearings. They focused on high-risk defendants, defined as those who were intentionally absconding or bending the rules. Additionally, the probation department increased the use of creative sanctions, including modifying curfews and conducting safe community checks in accordance with state guidelines.

Courts and communities must do more to address trauma and inequity.

For many communities, the COVID-19 pandemic heightened the trauma and inequities that already exist in domestic violence cases. Trauma is an inherent component of every domestic violence incident. It can influence the way individuals behave, the choices they make, and their relationships and interactions. Trauma from domestic violence may diminish coping skills, interfere with access to justice, lead to complications with mental and physical health, and contribute towards substance use. Particularly concerning, trauma can impact the information courts receive, which undermines safety and accountability in domestic violence cases.

Survivors already dealing with the trauma of domestic abuse also experienced burnout, fatigue, and further distress brought on by pandemic-related challenges. Many courts and communities recognized the compiling trauma and continue to explore the role of trauma-informed practices in their system. The Center for Court Innovation recommends that courts:

- Train staff at all levels on trauma-informed practices and vicarious trauma, especially staff interacting directly with litigants on domestic violence cases.
- Screen and assess for risk of increasing violence and/or lethality.
- Create a standardized referral process to help connect litigants to additional resources and supportive services, including culturally-specific service providers.
- Conduct outreach and build relationships with survivors

and domestic violence advocacy agencies that can provide context and information on ongoing safety needs and concerns.

- Ensure that temporary and final dispositions (as well as any decisions in between) include measures that account for all safety concerns and minimize triggers.

Intersecting with trauma are issues surrounding inequity in the justice system, which further harms survivors. As is the pattern with emergency situations, communities of color and other historically marginalized and/or underserved populations suffered disproportionately from the harmful consequences of the pandemic, including an increase in violence within communities and homes. Moreover, the pandemic coincided with a nationwide reckoning towards the structural racism within our country's institutions, especially those associated with the legal system. Many courts have grappled with how to address embedded biases in the court system. In New York State, the chief judge commissioned an independent review, which produced a "[Report from the Special Adviser on Equal Justice in the New York State Courts](#)," detailing instances of racism and changes to policies to ensure equal justice, advance equity, and promote inclusion.

Any effective response by the legal system must be grounded in efforts to achieve racial equity and to be responsive to the needs and perspectives of all community members, especially those whose voices are often not part of the conversation.

A Holistic Response to Improve Safety

Caminar Latino in Georgia, a holistic domestic violence program that offers services for the whole family (i.e., survivors, their children, and abusive partners), focused on eliminating economic and other burdens for their clients, many of whom are undocumented. They provided gas and Walmart gift cards to alleviate financial strain, identified community resources (e.g., food pantries) they could access without documentation, created short videos in Spanish explaining the meaning of various public health orders, helped create schedules for home-schooled children, and offered tutoring for children by utilizing their youth participants. Abusive partner intervention facilitators also checked in with abusive partners on a regular basis. Their goal was to enhance the safety and well-being of families and decrease the burdens that often increase risk.

Holding Space and Community

The **Alma Center in Wisconsin**, a healing-centered abusive partner intervention program in Milwaukee, offered voluntary virtual programming in addition to an individual check-in for all participants through phone, email, or text contact. They utilized video conferencing, which enabled participants to call in via phone, and 80% of their participants had the capability and desire to attend ongoing virtual programming. For those who opted out or could not attend group, the Alma Center offered individual sessions. To get participants set up, they created new forms about confidentiality and safety with virtual programming and helped participants download the app on their phones. They made sure participants understood that they needed to have a separate physical space and headphones to take

the call but were flexible in adapting to the realities of participants, allowing people to call in from cars. They also collected information about participants' living situations (i.e., if the partner lived at home) and connected partners to support through a local advocacy agency if desired. Though they prepared to facilitate their traditional class online, they reverted to holding space for clients to discuss the trauma of COVID, particularly in the African American community of which most participants are a part. They supported them, helped them access reliable information about the pandemic, and tried to decrease agitation and help people be present.

Additional Resources

- [Draft Adaptation of the European Network Guidelines for Working Responsibly with Perpetrators of Domestic Violence During the COVID-19 Pandemic for Consideration by United States Perpetrator Programs](#)
- National Council of Juvenile and Family Court Judges, [Considerations for Safe and Effective Responses by Courts to the COVID-19 Pandemic](#)
- National Network to End Domestic Violence, [Tech Abuse in the Pandemic & Beyond](#)
- [Tahirih Justice Center, A Guide to Adapting Trauma-Informed Lawyering Best Practices During the COVID-19 Pandemic](#)

Endnotes

1. Kluger, Jeffrey. “Domestic Violence Is a Pandemic within the COVID-19 Pandemic.” Time, Time, 3 Feb. 2021, <https://time.com/5928539/domestic-violence-covid-19/>
2. California Commission on Access to Justice. “Remote Hearings and Access to Justice Page During Covid-19 and Beyond.”
3. National Center for State Courts. “The Use of Remote Hearings in Texas State Courts: The Impact on Judicial Workload.” Dec 2021.

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