

Case File Review Summary

Delaware utilized a portion of its FCEP funds to underwrite a case file review that systematically tracked domestic violence allegations and outcomes in protection order and child custody cases. Two hundred cases filed between 2011 and 2013 were randomly selected for review. Each case included at least one petition for a civil protection order and a subsequent petition for child custody involving the same parties. The research team traced how domestic violence was raised by the parties and addressed by the court: how allegations of domestic violence were characterized by the petitioner in protection order case – how the court ruled on those allegations – whether allegations of domestic violence were raised in the subsequent custody case and, if so, how they related, if at all, to the allegations in the protection order case – and how domestic violence factored into the custody determination, if at all. The case file review revealed a general trend towards “disappearing DV,” where allegations that were raised in the protection order petition never made their way to the judge in the custody case.

To understand the forces behind the “disappearing DV” phenomenon, Delaware undertook a much more focused, in-depth look at a subset of cases from the case file review. A local team of practitioners systematically read each file to determine the context within which these cases were determined. This more detailed study exposed how domestic violence sometimes fell through the cracks – in both expected and unexpected ways. Some of the expected ways included poorly drafted pleadings, lack of legal representation, inconclusive evidence, and dropped cases. One of the unexpected ways domestic violence fell through the cracks was connected to a flaw in standardized forms that either didn’t provide an obvious place for parties to allege DV – or didn’t leave space for judicial officers to make explicit or extensive findings of DV. Another unexpected way domestic violence got lost was through technical dismissals. Some cases were dismissed because petitioners failed to certify that they had attended a required parenting class – or failed to pay a required fee – or neglected to attend a mediation session. Armed with this knowledge, Delaware was able to revise basic forms and policies – and enhance resources for self-represented parties – to correct the problems it uncovered.