

The Resource Center Newsletter

Without a Lawyer, but Not Without Help

Most family court custody cases have at least one participant who is not represented by an attorney. Cases with self-represented litigants (SRL) make up between 70% and 90% of all family court cases.¹ Unsurprisingly, then, the majority of survivors of domestic violence who seek remedies through the family court do so without the help of an attorney. While having a lawyer is recommended, the harsh reality is that there are simply not enough pro bono or legal aid lawyers to meet the great need.²

Findings from interviews with SRLs suggest that they feel disadvantaged in court compared to those with legal representation, perceive that representing themselves negatively impacts their case outcomes, and believe that representing themselves adds stress to an already taxing experience.³ For survivors of domestic violence, these challenges are magnified: a survivor is typically at a financial disadvantage, the presence of domestic violence often complicates the case, and in addition to the typical stress of a family court case, a survivor is often trying to manage trauma, both the survivor's own and the children's.

These unfortunate circumstances are very real in the lives of the survivors and their advocates who contact the Resource Center on Domestic Violence: Child Protection and Custody (RCDV:CPC) every day seeking help with their custody cases. Self-represented survivors hope that the court will provide the safety and justice that they have not been able to secure alone. However, the judicial system is not designed to be educational or forgiving of those who do not understand legal protocols. The

¹Arkansas Access to Justice Commission. (2011). *Exploring the problem of self-represented litigants in Arkansas civil courts*. Retrieved from <https://arkansasjustice.org/wp-content/uploads/2017/04/Capstone-Report-AAJC-Final-1.pdf>; Garcia, N. Z. (2014). *Examining dissolutions amongst self-represented litigants in the Superior Court of Arizona in Maricopa County*. Institute for Court Management. Retrieved from <http://www.ncsc.org/~media/Files/PDF/Education%20and%20Careers/CEDP%20Papers/2014/Dissolutions%20among%20Self-Represented%20Litigants.ashx>; Knowlton, N. A., Cornett, L., Gerety, C. D., & Drobinske, J. L. (2016). *Cases without counsel: Research on experiences of self-representation in U.S. family court*. Institute for the Advancement of the American Legal System. Retrieved from http://iaals.du.edu/sites/default/files/documents/publications/cases_without_counsel_research_report.pdf; Macfarlane, J. (2013). *Identifying and meeting the needs of self-represented litigants: Final report*. Retrieved from <https://representingyourselfcanada.files.wordpress.com/2014/05/nsrlp-srl-research-study-final-report.pdf>.

²Hadfield, G.K. (2014). Innovating to Improve Access: Changing the Way Courts Regulate Legal Markets, *Daedalus* 5 (finding that to address the unmet legal needs of Americans even partially would require over 900 pro bono hours annually per attorney).

³Knowlton, et al. (2016).

results can be grave and may include losing child custody. The majority of calls to our 800-line are from survivors who must go forward with their cases alone.

To help meet these needs, the RCDV:CPC developed a series of SRL guides. Each short guide is focused on one aspect of a custody case. For example, [10 Ways to Find Help with Your Case](#) lists possible sources of assistance. These sources include local self-help centers or law libraries, national resource centers, and reliable online materials.

Another guide, [10 Things to Know about Family Court](#), provides an overview of family court. The guide discusses the people who might be involved in the case, such as a judge, mediator, or court clerk. It also covers what the court can and cannot do and provides other information to help orient a self-represented survivor to the family court system.

Two popular guides focus on evidence and how to provide information about the survivor's family to the court, so it can consider all relevant facts when making its decision. Even judges who understand domestic violence must have evidence to support their decisions. SRLs often have difficulties providing proper evidence because they don't understand the justice system's rules and procedures. [10 Steps for Presenting Evidence in Court](#) provides a step-by-step guide to gathering, organizing, and presenting the information that judges need, including witnesses and other sources like photos, reports, and letters. [How to Gather Technology Abuse Evidence for Court](#) is our latest guide. It describes how to document texts, emails, and social media posts in a way that will be admissible in court – instead of trying to hand the judge a smartphone.

Plans to develop the series are ongoing. The next guide will focus on mediation and how to participate effectively. Suggestions for how to ask about exemptions or safety accommodations for cases with domestic violence are a key aspect of the guidance provided in this publication. Other guides are in development, and we welcome ideas! If you would like to propose a topic, please feel free to email us at fvdinfo@ncjfcj.org.

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