

## Helping domestic violence survivor clients after the case formally ends

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**Toby Kleinman and Daniel Pollack | August 27, 2021**



The attorney/client relationship formally ends shortly after a matter is fully resolved by court order, whether the case settled or upon order of a court after trial. However, where a family matter involves domestic violence, there are several things attorneys and their survivor clients

should know. Coercive control and attempts at coercive control may go on for years after a court case is formally over. Actual physical violence may still be a risk to both the adult victim and any children.

The Centers for Disease Control and Prevention defines intimate partner violence (IPV) as follows.

“Intimate partner’ refers to both current *and former* spouses and dating partners. IPV can vary in how often it happens and how severe it is. It can range from one episode of violence that could have lasting impact to chronic and severe episodes over multiple years. IPV can include any of the following types of behavior:

- *Physical violence* is when a person hurts or tries to hurt a partner by hitting, kicking, or using another type of physical force.
- *Sexual violence* is forcing or attempting to force a partner to take part in a sex act, sexual touching, or a non-physical sexual event (e.g., sexting) when the partner does not or cannot consent.
- *Stalking* is a pattern of repeated, unwanted attention and contact by a partner that causes fear or concern for one’s own safety or the safety of someone close to the victim.
- *Psychological aggression* is the use of verbal and non-verbal communication with the intent to harm another person mentally or emotionally and/or to exert control over another person.”

Abusive relationships are unique in that that they are often not characterized by wounds from physical violence, but rather wounds that often take a lot of time of time to even begin to heal, such as coercive control, which “... refers to a pattern of controlling behaviors that create an unequal power dynamic in a relationship. These behaviors give the perpetrator power over their partner...”

As well, gaslighting is another form of non-violent interpersonal violence.

“Gaslighting is a colloquialism that is loosely defined as making someone question their reality. The term is also used, informally, to describe someone who persistently puts forth a false narrative which leads another person to doubt their own perceptions to the extent that they become disoriented and distressed.”

Because coercive control and gaslighting by a former partner can be so damaging and can undermine self-confidence, clients should be made aware that if this starts after the case is ended, the attorney should be alerted. Further, clients should be made aware that if they see behavior by their former partner that causes them concern or alarm, the behavior should be taken seriously. Attorneys should also take those concerns seriously. Coercive control and gaslighting should not be ignored, as they are often recognized as a behavior that precedes physical violence.

There are other post-judgment concerns. Only a small percentage of children lie about abuse. Therefore, if children report abuse, an attorney should be notified and should engage the assistance of an expert. This is important, as women who report abuse lose custody at alarming rates when they report abuse directly to the court. Further, experts can guide a protective parent through the difficulty for protection. An expert who reports abuse is better positioned to protect a child.

It is also useful to help a client avoid direct disputes with a former partner. Where there are such disputes, the attorney can get re-involved. Clients should be counseled to try to stay above the fray wherever possible. Accordingly, sometimes attorneys need to continue to be

involved without a break even where a case is resolved through agreement or trial, by writing letters or communicating with adversary counsel on issues as they arise, especially with regard to children.

The vast majority of victims of domestic violence have financial constraints. Anything an attorney can do to connect their client with financial assistance resources will ultimately be a benefit to the client as well as the client's children. Similarly, victims of domestic abuse who are able to access an attorney are more successful at obtaining protections on their own. Facing domestic violence post-divorce can be overwhelming. Staying involved as an attorney, even minimally, can make a big difference.

On a similar note, be mindful that the relationship between the attorney and client is always a professional one, but also a human one. The client's feelings of gratitude and trust for the attorney do not end just because the legal service provided is now complete. To be sensitive to the client's feelings is valid no matter how long the formal relationship lasted. Offering moral support to clients during this period of closure will assist the client to continue to grow, develop, and move on from the abusive relationship, as long as the abusive partner stops asserting control and/or violence.

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