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Supervised Visitation and Monitored Exchange: Review of the Literature and Annotated Bibliography

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Barbara A. Babb, Gloria Danziger & Judith D. Moran, Supervised Visitation and Monitored Exchange: Review of the Literature and Annotated Bibliography, Maryland Judiciary (2009) (with Mack)

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**SUPERVISED VISITATION AND MONITORED EXCHANGE:
REVIEW OF THE LITERATURE AND ANNOTATED BIBLIOGRAPHY**

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A COLLABORATION BETWEEN:

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FAMILY ADMINISTRATION

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**CENTER FOR FAMILIES, CHILDREN AND THE COURTS
UNIVERSITY OF BALTIMORE SCHOOL OF LAW**

Barbara A. Babb, Director



April 2009

The Maryland Judiciary Research Consortium

This report is a product of the Maryland Judiciary Research Consortium. The Consortium is comprised of Maryland's public universities that collaborate under memoranda of understanding with the Maryland Judiciary, Administrative Office of the Courts. The institution responsible for the production of the current report, the Center for Families, Children and the Courts, University of Baltimore School of Law, is a member of the Maryland Judiciary Research Consortium. The contact representative for the Consortium is C. David Crumpton, Administrative Office of the Courts, Court Research and Development Department. He can be reached by phone at 410-260-1274 and by email at david.crumpton@mdcourts.gov.

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EXECUTIVE SUMMARY

Though courts increasingly rely on supervised visitation services in custody disputes and child welfare cases (Salem, Kulak, & Deutsch, 2007), a search of the literature produces few studies reporting empirically validated aspects of supervised visitation programs. The current literature about supervised visitation extensively documents the rationale for providing the service and contains numerous descriptions of provider programs (Birnbaum & Alaggia, 2006). The next generation of research must focus on long-term outcomes that demonstrate effectiveness of supervised visitation programs (Birnbaum & Alaggia, 2006).

Several organizations have produced standards of practice that identify the components of an effective visitation program (see, e.g., Supervised Visitation Network, Standards for Supervised Visitation Practice, 2006; California Rules of Court, Standard 5.20, 2008; Supreme Court of Florida, Minimum Standards for Supervised Visitation Program Agreements, 1999). Although these organizations agree broadly on the basic outline of an effective program, disagreements exist about the details. The unresolved issues concerning the programs' components include: staff training (how much training and what kind); communication with the courts (how often and in what form, what kind of content); and appropriate safety provisions (metal detectors and armed police officers with power to arrest or a more inviting, family friendly environment with panic buttons and two-way radios). Securing reliable funding is equally problematic for nonprofit and for-profit service providers.

Supervised visitation programs face challenges and opportunities to provide a range of services tailored to specific case types. Child welfare cases, for example, offer the opportunity for programs to provide parenting skills that promote optimal child development (Edwards, 2003; Lee & Stacks, 2004), and important benefits accrue to children as a result of strengthening attachments to biological parents during supervised visitation (McWey & Mullis, 2004).

Families with overlapping problems, such as domestic violence, substance abuse, and mental health issues, challenge the capacities of supervised visitation service providers. Community collaborations, however, between governmental agencies and local nonprofit groups bring a greater range of resources to bear on problems and enhance capacities of local visitation centers to deliver appropriate services when families need them (see, Safe Havens: Supervised Visitation and Safe Exchange Grant Program). Additionally, greater understanding and differentiation of family violence that distinguishes gradations of family strife allow judges to issue appropriate visitation orders that increase safety while reducing tension in high-conflict families (Kelly & Johnson, 2008; Jaffe, Johnston, Crook & Bala, 2008).

Judicial decisions ordering supervised visitation are informed by "the best interests of the child" standard. Some states narrow the range of judicial discretion, with specific statutes to address supervised visitation programs and their relationship to ensure the well-being of children (Clearinghouse on Supervised Visitation Home Page, 2008). Those statutes, however, are broadly written. Critics argue that "the best interests of the child" standard itself fails to define adequately criteria used to decide access cases

(Brandt, 2007) and that judges rely too heavily on common sense approaches (Adam & Johnson, 2008).

This literature review supports the following recommendations for consideration by the Maryland Administrative Office of the Courts:

(1) Undertake empirically-based research to test long-term outcomes associated with supervised visitation programs.

(2) Institute a pilot program to establish a more family-friendly supervised visitation center employing fewer confrontational procedures and devices to ensure participant safety.

(3) Expand access to supervised visitation services by pursuing federal grants to fund increased collaboration between the courts and local nonprofits.

(4) Institute mandatory standards for supervised visitation centers governing staff training (time and content), communications with the court, and minimum provisions for safe operation.

(5) Prepare and distribute a judicial training manual on supervised visitation that addresses in depth access orders in child sexual abuse and domestic violence cases and the overall purpose and operation of supervised visitation centers.

(6) Perform a formal study of the Connecticut Judicial Branch-Court Support Services Division's structure and implementation of the Family Civil Intake Screen for adaptation in Maryland courts, giving particular attention to the opportunities afforded by the screening tool for early assessments and assignments of specific services in high- conflict family disputes.

(7) Form partnerships with the University of Baltimore School of Law and the University of Maryland School of Social Work to create standards, collect data, and administer the delivery of supervised visitation services throughout the state.

INTRODUCTION

PURPOSE OF LITERATURE REVIEW

This project involves a review of the literature concerning supervised visitation and child access services. The intent of the research is to summarize best practices supported by empirical evidence. It identifies emerging trends, issues, and gaps in the relevant literature. It also integrates the best practices analysis with recommendations for further consideration by the leadership of the Maryland Judiciary.

SEARCH STRATEGY

The researchers conducted electronic searches within the following databases using various combinations of the keywords “supervised,” “visitation,” “monitored,” “exchange,” “child,” “access,” and “programs:”

- Academic Search Premier
- ERIC
- Heinonline
- Index to Legal Periodicals
- LegalTrac
- MasterFile Premier
- Psychology and Behavioral Sciences Collection
- Psycinfo

- Social Sciences Citation Index

The researchers focused on the following dimensions in their review of publications that met the search criteria:

- Components of effective visitation services;
- Training for supervisors;
- Safety issues;
- Child welfare cases;
- Domestic violence issues;
- Visitation programs in custody and divorce cases;
- Criteria for using visitation services.

FUNCTIONAL DEFINITIONS

Supervised visitation- encompasses the term *monitored exchange* and denotes parent/child contact or the exchange of children between the custodial and non-custodial parents under the auspices of a third person for visitation purposes. Supervised visitation safeguards a child's physical and emotional well-being during parental visits carefully monitored by a neutral third party (Supervised Visitation Network, 2007).

Monitored exchange - minimizes opportunities for conflict between parents in cases where a child's safety during visitation is not at issue.

Services provider - includes any individual or supervised visitation center that monitors visitation or exchange.

Therapeutic provider - a licensed mental health professional paid for providing supervised visitation services. Providers may be psychiatrists, psychologists, clinical

social workers, marriage and family counselors, or interns working under direct supervision of a qualified licensed mental health professional.

High-conflict parents - "Parents [who] are identified by multiple, overlapping criteria: high rates of litigation and relitigation, high degrees of anger and distrust, incidents of verbal abuse, intermittent physical aggression, and ongoing difficulty communicating about and cooperating over the care of the children" (Salem, Kulak, & Deutsch, 2007, p.746, quoting Johnston & Roseby, (1997), from a report on the characteristics of what they label "failed divorces").

SUPERVISED VISITATION AND CHILD ACCESS SERVICES

In the past decade, supervised visitation and monitored exchange services have become increasingly important means to manage child custody disputes (Brandt, 2007). The growing reliance on supervised visitation services has been attributed to a greater number of intractable custody disputes (Salem, Kulak, & Deutsch, 2007). The challenging nature of these disputes may be the result of changing cultural norms, including: married and cohabitating fathers who want more parenting time than divorcing fathers in previous generations; increased levels of the reporting and the incidence of domestic violence, child abuse and chemical dependency; and increases in the numbers of unrepresented parents advancing their cases in court (Salem et al., 2007). Supervised visitation services allow violence-prone parents locked in these intractable disputes to experience parent-child contact while in the presence of an appropriate third party supervisor. Supervised visitation programs offer a variety of services:

- One-to-one supervision (one supervisor assigned to a single family);

- Monitored exchanges (supervision of a child's transitions from the custody of the residential parent to visits with the nonresidential parent immediately before and after unsupervised visitation);
- Group supervision (supervision of several families at a time);
- Telephone monitoring (monitoring phone calls from the nonresidential parent to the child);
- Ancillary services, such as parent education; and
- Therapeutic supervision (mental health professionals providing therapy/counseling to the family during the visit) (Crook & Oehme, 2007).

In 1995, there were only 56 supervised visitation and child access programs in 28 states. By 2006, the Supervised Visitation Network (SVN) listed 525 agency, affiliate, and individual members in North America; Florida alone had 62 such programs (Crook, Oehme, O'Rourke, & Slawinski, 2007). Child access programs developed to help families struggling with issues of drug addiction, mental health impairment, poor parenting, risk of child abduction, domestic violence, and prolonged absence (Crook, Oehme, O'Rourke, & Slawinski, 2007).

Parents in conflict may choose voluntarily to sign up for access services as a means of limiting potentially dangerous interactions, but they more often are ordered by the court to use supervised visitation when threats to the safety of a parent or child are evident or alleged. Third-party supervision service providers include family members, volunteers, interns, independent contractors, trained professionals, mental health care workers, and court-appointed personnel. Parents exchange children for visitation in restaurant parking lots, schools, churches, universities, childcare agencies, and

courthouses (Stern and Oehme, 2005). In addition to services provided by family members other than children's parents, courts rely on non-profit agencies, for-profit contractors, and centers established within the court system to provide the service.

Although diverse, supervised visitation case types roughly fall into one of four categories:

- 1) One or both parents are locked in a pattern of difficult and inappropriate behavior that is thwarting the process of shared parenting.
- 2) The child's relationship with a parent is threatened by the risk of parental kidnapping, or there is substantial interference with the non-custodial parent's access to the child.
- 3) The child's health and safety are threatened because the parent's capacity to safely care for the child is impaired by mental-health or substance-abuse issues.
- 4) There have been incidences of domestic violence between the parents (Brandt, 2007).

In Maryland, supervised visitation and exchange services are provided in twenty of the twenty-four Circuit Court jurisdictions (AOC Annual Report, 2006). Supervised visitation services providers include private for-profit agencies, private non-profit groups, faith-based organizations, and court-centered programs.

Despite a greater number of available supervised visitation centers, court service agencies nationwide struggle to accommodate the number of high-conflict parents experiencing custody and access disputes (Salem, Kulak, and Deutsch, 2007). Though

most separating couples, regardless of legal status, are able to arrange visitation schedules that meet their children's needs, high-conflict cases pose a continuing safety threat for between ten and thirty percent of these families.

COMPONENTS OF EFFECTIVE VISITATION SERVICES

There is general consensus among services providers and the courts concerning the basic components of effective supervised visitation services. Though no single set of standards has been adopted nationally, similar "standards of practice" documents embody these shared opinions. For example, programs accepting court referrals in Florida must agree to adhere to the minimum standards adopted by the Florida Supreme Court in 1999 (Florida Supreme Court, 1999). The standards address:

- Basic terminology and definitions;
- Purposes of providing supervised visitation;
- Roles and responsibilities of
 - the chief judge,
 - the program director, and
 - the visitation supervisor;
- Basic operating procedures;
- Rules for intake, termination of contact, and discharge;
- Records management;
- Staff training requirements; and
- Employment requirements.

Under Florida's minimum standards, supervised visitation programs are required to enter into a program agreement or a written understanding between the court and the provider articulating:

- The scope and limitations of the provider's services;
- The procedures for court referrals to the provider; and
- The manner and procedures for communicating with the court.

(Supervised Visitation Network, Standards for Supervised Visitation Practice, 2006).

STAFF TRAINING

The various standards of practice for staff training describe minimum expectations. Though details differ, each set of standards suggests a basic level of training for services providers who contract with the courts or join the Supervised Visitation Network (SVN). The California Court standards, for example, "encourage" courts to make available to all providers informational materials about the role of a provider, the terms and conditions of supervised visitation, and the legal responsibilities and obligations of a provider (California Rules of Court, Standard 5.20, 2008).

Professional and therapeutic providers "should" receive training that covers: child abuse reporting laws; record-keeping procedures; screening, monitoring, and termination of visitation; developmental needs of children; legal responsibilities and obligations of a provider; cultural sensitivity; conflicts of interest; confidentiality; and issues relating to substance abuse, child abuse, sexual abuse, and domestic violence (California Rules of Court, Standard 5.20, 2008).

Issues related to staff training standards necessarily include economic imperatives, which compel weighing the risks and rewards of staffing a visitation center

with low-cost interns and volunteers who have minimal or no training in contrast with providing the high-cost services of trained mental health professionals. In recognition of the budgetary constraints faced by services providers, SVN has no enforcement mechanism or certification process for its twenty-five-hour recommended staff-training minimum, though members signal their support for and their intention to comply with the standards when they join the network (SVN, Standards for Supervised Visitation Practice, 2006). The majority of supervised visitation providers (67%) are a subsidiary or part of larger non-profit agencies, although some services providers choose to provide a limited range of services with relatively untrained personnel (Crook, Oehme, O'Rourke & Slawinski, 2007). Other communities establish elaborate webs of interconnected services providers, including local non-profits, state social service departments, and the courts. They offer high-quality supervised visitation with well-trained monitors as one service among a wide array of services that might also include parent education programs, individual counseling, child-centered therapy, anger management programs, and substance abuse intervention programs (Flory & Berg-Weger, 2003).

In addition to basic levels of training around a variety of subjects, supervised visitation programs scrupulously must maintain emotional neutrality by prohibiting staff from establishing personal relationships with parents or endorsing stereotypes that inject bias in the supervision process (Stern & Oehme, 2007). Programs should train staff that all participants in the program deserve to be treated with respect and dignity (Stern & Oehme, 2007).

COMMUNICATION WITH THE COURTS

Reporting formats and expectations for providers regarding communicating information to the courts are based on the program's purposes and the personnel involved in monitoring supervised visits. The literature suggests that courts should identify explicitly those expectations in the referral order. Generally, supervisors are asked to record detailed observations of the interactions between the non-custodial parent and child, summarize the detailed observations in a log format, and provide the court with a report that is condensed, factual, objective and free of opinion and judgment (see, e.g., Supervised Visitation Network (SVN), Standards for Supervised Visitation Practice, 2006; California Rules of Court, Standard 5.20, 2008; and Supreme Court of Florida, Minimum Standards for Supervised Visitation Program Agreements, 1999). The emphasis on factual documentation acts as a safeguard against using staff as expert witnesses to promote selectively a particular custody arrangement and interfere with the court's ultimate decision-making authority (Flory & Berg-Weger, 2003).

Standards for supervised visitation centers promulgated by the Supreme Court of Florida make explicit the distinction between neutral reports based on observations and interpretative evaluations of the quality of parent-child contact (Supreme Court of Florida, Minimum Standards for Supervised Visitation Program Agreements, 1999). Supervision monitors must be trained to make observational reports and only licensed mental health professionals are qualified to evaluate parent-child contact (Supreme Court of Florida, 1999). Licensed mental health professionals who observe and evaluate parent-child contact may express professional opinions about the efficacy of continued supervised visitation, but, without prior approval from the court, these practitioners should refrain from offering recommendations or opinions about the ultimate resolution

of custody or access issues between a parent and child who have been supervised by the program (Supreme Court of Florida, 1999). In assembling a manual for Florida's judges to use in cases requiring supervised visitation orders, Maxwell and Oehme (2004) address the limits of supervised visitation programs: "Supervised visitation is not parenting evaluation. Programs should not make recommendations about the custody or placement of the children, because program staff are not typically mental health professionals" (p. 116). The same authors caution in another article that observations of visits, which often are choreographed by the non-custodial parent, may not accurately represent the inherent level of safety and should not substitute for thoughtful and comprehensive custody evaluations (Oehme & Maxwell, 2004).

Performance standards cover the provider's communication of information to the court. The literature also suggests that additional guidelines are necessary to govern the flow of information *to* providers *from* the courts and other agencies to facilitate more effective supervision of parent-child visits (Oehme & Maxwell, 2004). If there is a formal process in place for the judiciary to give staff critical information about a given case, staff can make the preparations necessary to ensure safety and to observe cases that call for special attention (Oehme & Maxwell, 2004). Social services agencies, the courts, and police departments should collaborate to collect information, particularly in the areas of background checks of non-custodial parents, and, in some cases, custodial parents themselves (United States Department of Justice, Office on Violence Against Women, *2006 Report to Congress on the Safe Havens: Supervised Visitation Program*).

SAFETY

The central mission of supervised visitation is to facilitate safe contact between parents and children, which calls for a secure facility and procedures to prevent both physical and emotional harm. Effective programs offer procedures that screen for safety risks prior to providing supervised contact between parents and children.

Stringent security measures are needed at visitation centers because of the following common threats to safety (based on data collected by the Clearinghouse on Supervised Visitation):

- Incidents involving substance abuse by the nonresidential parent during visits and parents who are openly intoxicated;
- Incidents involving parental unwillingness to comply with program rules, such as refraining from yelling at the child, criticizing the other parent in the child's presence, using profanity, and criticizing staff;
- Incidents involving threats of physical aggression/intimidation toward staff or the custodial parent;
- Incidents involving parental mental illness;
- Incidents involving actual acts of physical aggression, including parents slapping and biting staff members or pushing staff away in an attempt to get closer to the custodial parent;
- Incidents arising from court injunctions for protection against domestic violence;
- Incidents involving specific prohibited interactions with children during visits as a result of the child's past sexual abuse (Oehme & Maxwell, 2004).

Improvements in the quantity and specificity of the information that accompanies referrals and increases in staff training are needed to enhance security at visitation centers (Oehme & Maxwell, 2004). Programs should be required to have on the premises a law enforcement officer with the authority to arrest unruly clients. Staff should receive ongoing training to ensure that they can manage effectively high-conflict families (Oehme & Maxwell, 2004).

According to a survey of services providers in Florida, 96% of programs use security equipment and 43% employ law enforcement security personnel (Crook, Oehme, O'Rourke & Slawinski, 2007). Researchers recommend that all supervised visitation centers be required to use on-site security personnel (Crook et al., 2007).

Chicago's pilot Safe Havens program, however, has developed an alternative to on-site security personnel. The program is committed to ensuring respectful and fair interactions by creating an atmosphere of trust, beginning with the client's first contact with the program, which operates without metal detectors and security guards (City of Chicago, Mayor's Office on Domestic Violence, 2008). Safe Havens projects are distinguished from child welfare-focused supervised visitation centers because of their dual concern for the safety of both the child and the adult victim of domestic violence.

While recognizing the need for security procedures such as separate waiting rooms and staggered arrival and departure times, Chicago's Safe Havens program staff foster a sense of emotional safety by explaining the benefits of the program to all participants. Custodial parents participating in visitation programs around the country point out that, apart from the intake process, visitation staff interact more often with the non-custodial parent. In contrast, Safe Havens program staff regularly contact and listen

to the concerns of the custodial as well as the non-custodial parents. The result is that the custodial parent and children view the Safe Havens program center as a more supportive environment, while the non-custodial parent regards the center as a less punitive environment. Instead of compromising safety, the emphasis on respect and fairness for all clients may actually enhance it (City of Chicago, Mayor's Office on Domestic Violence, 2008).

SUPERVISED VISITATION FOR CHILD WELFARE CASES

Supervised visitation services long have been available in child maltreatment cases in which the child is removed from the home or remains in the home while the family receives support services. Though the problems of these families often overlap with those of high-conflict custody cases, these cases are distinguished by child abuse or neglect and may involve domestic violence and/or substance abuse. Monitored visitation enables social workers or child protection workers to ensure the child's safety in the company of parents while working toward family reunification (Flory, Dunn, Berg-Weger, & Milstead, 2001).

An expanded oversight role for judges who order visitation in child protection and family reunification cases is appropriate (Edwards, 2003). This expanded role enables judges to craft decisions concerning the frequency and duration of supervised visitation that avoid subjecting parents and children to the arbitrary limitations imposed by the agencies providing the service (Edwards, 2003). As a consequence of budgetary constraints, supervised visitation services often involve a prescribed number of visits without regard to the specifics of a given case. When a judge becomes more active in the process, reunification plans facilitated by supervised parent-child visits are more likely to

be individually tailored, paying particular attention to interventions that address inappropriate parenting behaviors and promote optimal development of the child(ren) involved (Edwards, 2003). The value of supervised visitation is borne out by a demonstrable strengthening of parent-child bonds.

When the quality of attachment was tested for 123 children in foster care undergoing supervised visitation with their biological parents, the results indicated that for families in which reunification was a goal, children who experienced more consistent and frequent contact with their biological parents had stronger attachments than children who had less contact (McWey & Mullis, 2004). Children with higher levels of attachment also had fewer behavioral problems, were less likely to take psychiatric medications, and were less likely to be termed “developmentally delayed” than children with negative levels of attachment (McWey & Mullis, 2004). In addition, the study identified the factors that directly affected foster children’s attachment to their biological parents, including the frequency and constancy of visitation and the duration of time spent living with foster families (McWey & Mullis, 2004).

The test results suggest that supervised visitation actually can improve the lives of children in foster care by strengthening, with the help of foster parents, the attachment between children and their biological parents, and can avoid or reduce the high levels of medical, developmental, and behavioral interventions often required for children with weak parental connections (McWey & Mullis, 2004). Supervised visitation conducted when foster parents bring the foster child to a visitation center where the biological parents are waiting offers an unparalleled opportunity to build relationships between

parents and children by teaching developmentally appropriate parenting skills in a live family group setting (Lee & Stacks, 2004).

SUPERVISED VISITATION IN DOMESTIC VIOLENCE CASES

The American Bar Association defines domestic violence as follows:

a pattern of behavior that one intimate partner or spouse exerts over another as a means of control. Domestic violence may include physical violence, coercion, threats, intimidation, isolation, and emotional, sexual or economic abuse. Frequently, perpetrators use the children to manipulate victims: by harming or abducting the children; by threatening to harm or abduct the children; by forcing the children to participate in abuse of the victim; *by using visitation as an occasion to harass or monitor victims*; or by fighting protracted custody battles to punish victims. Perpetrators often invent complex rules about what victims or the children can or cannot do, and force victims to abide by these frequently changing rules. (ABA Commission on Domestic Violence, 2006, as cited in Stern & Oehme, 2007, p.501, emphasis added).

The Florida State University Institute for Family Violence Studies' Clearinghouse on Supervised Visitation has collected program and service data from 47 supervised visitation service providers across the state since January 2005. The Web-based database contains information on 5,196 cases, including dependency cases, domestic violence cases, and divorce/paternity cases involving custody disputes (Crook, Oehme, O'Rourke, & Slawinski, 2007). The majority of case referrals are dependency cases (57%), followed by domestic violence referrals (26%) and dissolution of marriage cases (12%). The most frequently reported reason for referral is domestic violence (53%) (Stern, Crook, & Oehme, 2008, p.4).

Family violence has reached epidemic proportions in the United States (Maxwell & Oehme, 2004). Parents engaged in high-conflict, post-separation visitation disputes routinely trade allegations of neglect, sexual abuse, or child abduction and often voice

safety-related complaints against each other (Dunn, Flory, & Berg-Weger, 2004).

Approximately 10% to 30% of separating parents are unable to negotiate viable visitation plans that allow children to maintain contact with both parents (Dunn et al., 2004). When allegations of domestic violence surface in early screening and custody is contested, supervised visitation allows courts some breathing room. The courts attempt to fashion fair outcomes that protect the noncustodial parent's right to access, while ensuring the emotional and physical safety of all parties, especially the children (Dunn et al., 2004). The obvious dangers of unsupervised visitation are avoided. The service, when available, puts the responsibility for safety in the hands of a neutral third party, instead of placing family members or friends at risk of violence or manipulation to safeguard contact between a batterer and the batterer's child(ren) (Oehme & Maxwell, 2004).

The legal system's response to the epidemic of domestic violence with tightened laws, more frequent arrests, round-the-clock availability of protection orders, court-based victim advocate programs, and shelters for battered women, has, in addition to protecting victims, spawned new opportunities for the perpetrators of violence to continue their abuse (Flory & Berg-Weger, 2003). In the visitation context, "the batterer's attempts to gain custody and control are often mistakenly viewed as a sincere desire to maintain, establish or reestablish a healthy parent/child relationship" (Flory & Berg-Weger, 2003, p. 208). To complicate domestic violence assessments further, male batterers often function well during evaluation, while their partner-victims may appear dysfunctional or pathological (Flory & Berg-Weger, 2003, citing Field, 1998). Accordingly, visitation staff need appropriate training concerning the dynamics of domestic violence, sufficient referral information, and on-site security personnel with the power to arrest to have the

means necessary to intervene during critical incidents that threaten the safety of children and adult victims of domestic violence (Oehme & Maxwell, 2004).

With the growing realization that families have multiple, overlapping problems that may include child protection, domestic violence, and divorce issues, the literature reveals a consensus on the provision of coordinated, community approaches to these problems (Stern & Oehme, 2007). The federal government supports community collaboration by funding units of local government that contract with nonprofit supervised visitation programs through the Safe Havens: Supervised Visitation and Safe Exchange Grant program administered by the U.S. Department of Justice, Office of Violence Against Women (Oehme & Maxwell, 2004). The U.S. Code provides:

The Attorney General, through the Director of the Office on Violence Against Women, may award grants to States, units of local government, and Indian tribal governments that propose to enter into or expand the scope of existing contracts and cooperative agreements with public or private nonprofit entities (1) to provide supervised visitation and safe visitation exchange of children by and between parents in situations involving domestic violence, dating violence, child abuse, sexual assault, or stalking; (2) to protect children from the trauma of witnessing domestic or dating violence or experiencing abduction, injury, or death during parent and child visitation exchanges; (3) to protect parents or caretakers who are victims of domestic and dating violence from experiencing further violence, abuse, and threats during child visitation and exchanges; and (4) to protect children from the trauma of experiencing sexual assault or other forms of physical assault or abuse during parent and child visitation and visitation exchanges. (42 U.S.C.A. § 10420(a) cited in Stern & Oehme, 2007, p. 507).

The city of Chicago received federal funding through the Safe Havens program in 2002 enabling it to enter into contracts with three supervised visitation and safe exchange centers: Apna Ghar, The Branch Family Institute, and Mujeres Latinas en Accion.

“Under the Safe Havens initiative, all grantees were required to: enhance their capacity to

deliver domestic violence-informed supervised visitation and safe exchange services, increase safety and security measures within their programs, and develop collaborative relationships with their local courts and domestic violence advocacy community” (City of Chicago, 2008, p. 2).

In addition to forging community collaborations to provide a wider range of support services, including supervised visitation, to victims of domestic violence, courts would benefit from distinguishing the kind of domestic violence at issue in a given dispute (Kelly & Johnson, 2008). A growing body of empirical research demonstrates that intimate partner violence varies with respect to partner dynamics, context and consequences (Kelly & Johnson, 2008, citing: Graham-Kevan & Archer, 2003; Holtzworth-Munroe, Meehan, Herron, Rehman, & Stuart, 2000; Johnson, 1995, 2006; Johnson & Ferraro, 2000; Johnston & Campbell, 1993; Leone, Johnson, Cohan, Lloyd, 2004). “In family court, reliable differentiation should provide the basis for determining what safeguards are necessary and what types of parenting plans are appropriate to ensure healthy outcomes for children and parent-child relationships” (Kelly & Johnson, 2008, p. 2). Acknowledging a limited scientific foundation for proposed guidelines, but relying on backgrounds in custody assessment and research, differentiated family violence research has been applied to a range of parenting plans that include co-parenting, parallel parenting, supervised exchanges, supervised access, and no access (Jaffe, Johnston, Crook, & Bala, 2008). Early identification of a particular kind of family violence through the use of more sophisticated screening mechanisms would allow supervised visitation centers to provide appropriate services earlier in the process, increase safety, and reduce family tension and conflict (Jaffe et al., 2008).

JUDICIAL CRITERIA FOR IMPOSING SUPERVISED VISITATION

When judges order supervised visitation, their decisions are informed by “the best interests of the child” standard. In some jurisdictions, judicial discretion is limited by legislative mandates that signal, for instance, when certain kinds of domestic violence create presumptions against unsupervised visitation or when other circumstances warrant supervised visitation. Thirteen states, including, California, Colorado, Connecticut, Florida, Idaho, Illinois, Kansas, Kentucky, Minnesota, New Jersey, New Mexico, Oklahoma, and Utah, have specific statutes that address supervised visitation programs. All of the states, except Kentucky and Nebraska, include references to visitation in parts of the state code addressing divorce, domestic violence, and child abuse and neglect (Clearinghouse on Supervised Visitation Home Page, 2008).

These statutes are broadly written, however, and allow judges discretion when deciding how much weight to give findings of domestic violence in child access cases or how such findings impact visitation decisions. Some argue that the judicial discretion afforded by applying the indeterminate “best interests of the child” standard in supervised access decisions “is a stopgap that relieves judges of the responsibility to eliminate parental contact with children when such contact is not, in fact, in the child(ren)’s best interests” (Brandt, 2007, p. 217).

A number of methodologies or schemes have been proposed to refine the application of the “best interests of the child” standard to limit what some view as excessive judicial discretion in child custody decisions (Brandt, 2007). When parents cannot come to an agreement on custody, some courts employ an “approximation” standard, whereas, other courts rely on a presumption of joint custody (Brandt, 2007).

Attachment theory provides a scheme for organizing and measuring observations in supervised family visitation centers and for using bonding evaluations to replace more common risk assessments for parental access decisions (Ansay & Perkins, 2001).

Rather than define a more specific standard for custody decision-making, some courts focus on moving cases more quickly through the system (Brandt, 2007). Case-management systems implement procedures and services, such as early mediation conferences and parenting classes, that provide increased opportunities and assistance for litigants to decide parenting access matters by themselves. Procedure-based approaches reduce the number of court hearings required to resolve child access issues and enable parents to play an active role in forging agreements, but they fail to define dispositive standards for cases that go before the judge (Brandt, 2007, p. 216).

Reliance by courts on “common sense” approaches to family matters that have no basis in scientific fact are criticized by some theorists (Adam & Johnson, 2008). They note judicial preferences unsupported by empirical evidence that include, among other issues:

- Effective co-parenting as a necessary condition for joint custody;
- “Location-engendered stability” (one home, one bed), an overemphasized solution for infants and toddlers who stand to benefit from more frequent overnights with the non-custodial parent;
- The “approximation rule,” an attempt to maintain an earlier relationship that has been transformed by new variables.

The courts should actively create parenting and access plans that maximize opportunities for children to establish developmentally appropriate relationships with each parent (Adam & Johnson, 2008).

GAPS IN THE LITERATURE, AREAS FOR FURTHER RESEARCH, AND CHALLENGES FOR THE FUTURE

The current literature about supervised visitation is notably thin on empirical research, considering the number, extent, and breadth of supervised visitation programs across the country. After a first wave of research demonstrating the need for supervised visitation, follow-up studies must examine parent-child outcomes and the intended and unintended consequences of supervised visitation between parents and children (Birnbaum & Alaggia, 2006, p. 123).

The studies, to date, have yielded significant information for future areas of research. They have shown that supervised visitation's effect on parent/child relationships is best studied by: (1) gathering information from multiple sources (key informants such as practitioners, staff, lawyers, teachers, parents and children), (2) gaining observational data of children and parents, (3) using testing instruments that have proven reliability, (4) gathering information about children's and parents experiences, and (5) following children and families over time to evaluate the effectiveness of supervised visitation and parent/child outcomes (Birnbaum & Alaggia, 2006, p. 123).

Court systems have been slow to adopt data collection protocols to support useful evaluations of supervised visitation services, and service providers have been less than meticulous about record keeping, despite agreements that mandate reporting (Crook, Oehme, O'Rourke, & Slawinski, 2007). "Florida is currently the only state which tracks the statewide usage of supervised visitation across all types of referrals, including domestic violence, child abuse and neglect (dependency cases), and separation and

divorce cases” (Crook et al., p.12). Supervised visitation programs in Florida must enter into an agreement with the local court to abide by the practice standards and to log observational data into the web-based database, but compliance with these requirements has been spotty (Crook et al., 2007). The Clearinghouse on Supervised Visitation administers Florida’s supervised visitation provider system and has used the database for a project funded by the Florida Department of Children and Families to produce profiles of practices across the state (Crook et al., 2007).

Attention also must be devoted to the development of a detailed and uniform training manual for supervisory staff. A specific curriculum with comprehensive information on domestic violence and attachment theory could guide on-site practice and make possible follow-up studies on the effects of standardized procedures on outcomes. Challenges include the development of an accurate assessment tool to evaluate the impact of domestic violence on the life of a child. They also include developing a related tool to evaluate the kind of violence threatening a family in order to determine the most appropriate access/visitation plan with the right level of therapeutic service. A final challenge is the design of a facility that both ensures secure visitation and invites wounded families to form new, beneficial, and lasting attachments in a family-friendly, non-punitive environment.

Future research efforts should track results over time and provide evidence supporting or refuting the assumptions and theories that inform supervised visitation practice. The dynamic interplay of social forces brought to bear on child access decisions may never yield categorically right or wrong approaches, but empirical evidence based on reliable social science research promises to identify the advantages and disadvantages

of one practice over another. Courts must specify those outcomes that are important to track over time and then develop and implement the data collection protocol to produce useful statistics. Courts also should investigate the relationship between particular outcomes and the practices that influence those outcomes, such as the impact on high-conflict families of secure visitation facilities with metal detectors and armed security personnel as compared to those facilities with fewer security protocols and an emphasis on fairness to all parties and a family-friendly environment.

BEST PRACTICES AND PROMISING MODELS

Practices worthy of particular attention include:

1. THE CONNECTICUT FAMILY COURT SERVICE AGENCIES' TRIAGE APPROACH TO THE DELIVERY OF FAMILY SERVICES.

In response to the court's perception of a growing epidemic of "failed divorces" and in line with the movement toward evidence-based practices fueled by research and outcome measurements, the Connecticut Judicial Branch-Court Support Services Division (CSSD) developed the Family Civil Intake Screen (Salem, Kulak, & Deutsch, 2007). This instrument helps to identify the level of family conflict and the degree of case complexity so that interventions can be tailored to a family's unique and special needs (Salem et al., 2007).

The Family Civil Intake Screen divides questions into six domains: (1) General Information; (2) Level of Conflict; (3) Ability to Cooperate and Communicate; (4) Complexity of Issues; (5) Level of Dangerousness; and (6) Disparity of Facts/Need for Corroborating Information. The screen is completed at the conclusion of the scheduling conference, when it is determined that additional services are necessary (Salem et al.,

2007). High-conflict relationships that are unlikely to benefit from parenting classes or mediation are identified and moved more quickly to trial (Salem et al., 2007). Early analysis of the data suggests that the Family Civil Intake Screen¹ leads to early resolution of custody, parenting and access disputes, and it provides a more efficient and effective service delivery system (Salem et al., 2007).

2. HERITAGE HOUSE'S FAMILY-FRIENDLY VISITATION AND CUSTODY EXCHANGE SERVICES.

A collaboration among the 22nd Judicial Circuit of Missouri, the St. Louis City Family Court and a private mental health agency, the Heritage House program offers one-on-one therapeutic supervised access services by master's level clinicians to all families referred to the program by the courts. Referrals encompass a variety of factors and needs:

- reconnection of the non-custodial parent with the child(ren) after a prolonged separation;
- introduction of the biological parent to the child(ren) when no previous relationship existed;
- a threat to the child's safety and well-being posed by one or both parents;
- inappropriate expectations of parental roles by one or both parents;
- a history of conflict or concern regarding risk of harm to children and adults during child visitation exchanges;
- a history of or concern about risk of child abduction by the non-custodial parent;

¹ Although the screen is included in the article, the authors caution that "effective implementation of the screen requires a carefully coordinated effort between management, consultants and staff and includes significant training...[T]he screen is not intended to be implemented independent of the process and considerable efforts that accompanied its development."(Salem, Kulak, & Deutsch, 2007, p.744). The Family Civil Intake Screen Process was one of eight semifinalists considered for the 2008 Annie E. Casey Innovations Award in Children and Family System Reform.

- a history of or concern about substance abuse;
- entrenched negative attitudes about the ex-partner that are communicated to the children;
- unwarranted hotline calls to child protective services concerning poor parenting skills;
- psychiatric diagnoses that compromise a parent's ability to care for the child.

(Flory, Dunn, Berg-Weger, & Milstead, 2001, p. 473). This collaboration between public and private agencies is associated with a decrease in inter-parental conflict and earlier resolution of some of the most intractable disputes (Flory et al., 2001).

3. THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF VIOLENCE AGAINST WOMEN, SAFE HAVENS: SUPERVISED VISITATION AND EXCHANGE GRANT PROGRAM ESTABLISHING PARTNERSHIPS BETWEEN LOCAL NONPROFIT ORGANIZATIONS AND THE COURTS.

Federal funds, through the Safe Havens Grant Program, are available to state and local governments forming partnerships with local nonprofit groups to establish supervised visitation centers. The goal of these partnerships is to create supervised visitation centers devoted to providing services to families with a history of domestic violence, sexual assault, stalking, dating violence, and child abuse. Funding provided through the grant is not restricted to direct services but may be applied to development costs and staff compensation.

Chicago's experience with the grant program was positive, even as the city faced the daunting challenges of identifying a funding stream to sustain the program as the grant expired (City of Chicago, Mayor's Office on Domestic Violence, 2008). Maryland courts, particularly in large urban jurisdictions, could take advantage of federal funding

and partner with well-established nonprofit agencies to create and sustain a robust network of supervised visitation centers.

4. FLORIDA'S COMPREHENSIVE MODEL FOR SUPERVISED VISITATION PROGRAMS.

Florida's Office of State Courts Administrator has partnered with Florida State University in administering a complicated web of supervised visitation programs providing visitation services to parents and children in a variety of cases, including child welfare cases, dissolution of marriage cases, and domestic violence cases (Maxwell & Oehme, 2004). The courts have contracted with the university-based Clearinghouse on Supervised Visitation to administer contractual relationships with service providers in each of the state's judicial circuits. In addition, the Clearinghouse conducts surveys of practice, houses the database of information from the state's program providers, develops standards of practice for service providers, writes training curricula for judges and supervisors, monitors program compliance with the court's minimum performance standards, and lobbies for increases in funding from the legislature and for the passage of laws that have a greater impact on both perpetrators and victims of domestic violence.

The courts in Maryland could explore expanded relationships with the University of Baltimore School of Law, the University of Maryland School of Law, and the University of Maryland School of Social Work to assist with data collection and research, to develop training curricula for judges and program directors, and to administer and monitor statewide programs to assure greater uniformity in response to the problems that confront the delivery of supervised visitation services.

CONCLUSION

There are two major concerns about supervised visitation: child/family outcomes and program characteristics/needs (Crook & Oehme, 2007). Funding and standards dominate the list of concerns about service programs, along with efficacy studies of individual programs (Crook & Oehme, 2007). The paucity of scientific evidence is of general concern in the literature regarding outcomes (Birnbaum & Alaggia, 2006).

Although this literature review recognizes the two domains identified by Crook and Oehme (2007), a third domain – domestic violence – presents the broadest array of challenges for the courts and communities struggling to protect children and victims while preserving the parental attachments critical to a child's development. Supervised visitation has played and will continue to play a key role, but several questions remain unanswered. These questions include:

- How much judicial discretion is appropriate in weighing findings of family violence in custody and access decisions?
- Are distinctions in the type and level of violence meaningful in the context of child access decision-making?
- Do certain kinds of violence warrant a rebuttable presumption against visitation of any sort?
- What interventions aimed at preserving parent-child relationships, while ensuring family safety, show promise for domestic violence cases?
- What are the reliable benchmarks in domestic violence cases that indicate it is safe to transition from supervised visitation to unsupervised visitation?
- How is the impact on a child of supervised visitation with the violent non-

custodial parent measured?

Given the potential risk of harm attending every child access decision, particularly those involving domestic violence, the legislature and the courts can address these questions. Florida has undertaken a number of initiatives to identify the nexus between domestic violence, the assessment of family violence by degrees, and the determination of the appropriate level of supervision. The partnership between the court and the Florida State University Clearinghouse on Supervised Visitation offers an organizational structure capable of addressing critical child safety questions with scientifically backed authority. The partnership works to administer Florida's supervised visitation programs and house the database of case information collected from the service providers. The collaboration enables the state to monitor judicial practice, service provider practice, and aggregate case outcomes.

Child access issues demand more attention, as recent changes in parenting attitudes alter the norms governing custody and parenting plan decisions. Advocates for fathers' rights urge the courts to consider new aspects of divorce proceedings and post-divorce custody litigation. Advocates for victims of domestic violence urge the courts to create solutions to access issues that ensure greater safety for all, especially for children. Supervised visitation and monitored exchange are vital services, but the dynamic social forces at work today call for a new, more subtle and flexible service in the future as program providers respond to an increasingly diverse range of troubling cases.

ANNOTATED BIBLIOGRAPHY

Adam, S.D. and Johnson, W.R. (2008). "Research-based Analysis of Joint Custody Presumptions: Thinking Outside the Box." *Orange County Lawyer*, volume 50, July, 38-42.

The authors argue against the reliance on "common sense" when the legislative and judicial branches of government list factors in domestic matters that have no basis in scientific empirical fact. Common sense tenets include the following: effective co-parenting is a necessary condition for joint custody; "location-engendered stability" (one home, one bed) is necessary for infants and toddlers; and the "approximation rule" (to the degree possible, the new parenting arrangements should approximate the previous arrangements). The authors recommend that a "best interests" parenting and access plan be devised only after conducting an analysis of the value of each parental relationship to the child and the relative contribution of each parent to the detrimental family conflict. The greatest deference should be given to plans that maximize opportunities for children to establish developmentally appropriate relationships with each parent.

Birnbaum, R. and Alaggia, R. (2006). "Supervised Visitation: A Call for a Second Generation of Research." *Family Court Review*, volume 44, 119-159.

This article is intended for a multidisciplinary audience of professionals working with family court litigants. The authors review current research literature about supervised visitation, noting extensive documentation of the rationale for the service and numerous descriptions of provider programs. The authors point out a significant dearth of research literature on program effectiveness, which they attribute to the relatively short length of time that supervised visitation programs have existed. Specifically, no studies to date have examined parent-child outcomes or the intended and unintended consequences of supervised visitation. The authors argue that the next wave of research must focus on establishing long-term outcome effectiveness to determine whether programs are meeting the needs of families in distress. In addition to providing descriptions of effective research designs, the authors call for leadership at the national level to provide funding in support of this research agenda.

Brandt, E.B. (2007). "Concerns at the Margins of Supervised Access to Children." *Journal of Law & Family Studies*, volume 9, number 2, 201-456.

The author argues that courts use supervised access as a buffer in high-conflict cases when the court cannot or does not get to the bottom of the dispute. A paradigm shift toward post-divorce shared parenting has made it difficult to eliminate a parent's custodial contact with children, even when there are allegations of abuse. The author asserts that although supervised access is often the vehicle used to accommodate shared parenting, it enables the perpetuation of dangerous parental involvement. Although some research demonstrates the positive impact of supervised visitation on parenting abilities, little is known about the impact on children. More research is needed to determine if

positive or productive effects accrue to the child and justify continued visitation by abusive parents. Nonetheless, supervised access *should not be* the vehicle by which detrimental relationships are continued. The author recommends that statutes governing the imposition of supervised visitation should be clear with regard to stating the purposes of the service, the behaviors that threaten the safety of children or the custodial parent that triggered the order, and the specific elements in the definition of ‘supervised access’ at issue. Furthermore, statutes should specify who supervises access, what training is required to provide the service, what the reporting obligations are, and how and when the order will be reviewed or evaluated.

City of Chicago, Mayor’s Office on Domestic Violence (2008). *Safe Havens: Supervised Visitation and Safe Exchange Grant Program National Demonstration Initiative Final Report*. Retrieved January 7, 2009 from http://www.cityofchicago.org/webportal/COCWebPortal/COC_EDITORIAL/MODV_SafeHavenRpt_jun08.pdf.

This report describes the work of the Chicago Mayor’s Office on Domestic Violence in overseeing the Safe Havens: Supervised Visitation and Safe Exchange Grant program administered by the Department of Justice, Office of Violence Against Women. Under the Safe Havens initiative, all grantees are required to: enhance their capacity to deliver domestic violence-informed supervised visitation and safe exchange services, increase safety and security measures within their programs, and develop collaborative relationships between local courts and the domestic violence advocacy community. The assumption built into the program design is that by adding new levels of screening for risk assessment at intake, maintaining communications with the victim parent between visits, and eliminating subjective judgments from the documentation regimen, visitation centers can reduce the chances of inciting collateral violence during the visitation process and further enhance the safety of victim parents and children. The report concludes that no matter how safe the particular visitation center, a greater array of services is required to protect parents and children who use them and that partnerships that involve local community-based programs are essential to establish a vital referral network.

Conner, D.H. (2008). “Do No Harm: An Analysis of the Legal and Social Consequences of Child Visitation Determinations for Incarcerated Perpetrators of Extreme Acts of Violence Against Women.” *Columbia Journal of Gender and Law*, volume 17, 163-223.

The author argues that, although courts have found that imprisonment alone is an insufficient basis upon which to deny a parent contact with his or her child, legal scholars have failed to consider how intimate partner violence affects parent-child bonding and prison visitation determinations. The effort to balance the liberty interest in the care and contact with children against punishment schemes that might inhibit that right should center on the best interests of the child, not on what is best for the incarcerated parent. Harm to the child is not derived exclusively from exposure to acts of violence. Continued contact with the batterer may impede recovery and yield lasting, negative consequences for the child. By considering the continuing risk of harm to children exposed to extreme acts of violence, the author argues for the adoption of a general rebuttable presumption

against visitation for incarcerated perpetrators of intimate partner violence. The standards developed in this discussion of incarcerated batterers and the call to consider the criminal act of violence when making decisions regarding prison visitation could apply to post-divorce visitation determinations when intimate partner violence is a factor.

Crook, W.P., Oehme, K., O'Rourke, K. and Slawinski, T. (2007). *Florida's Supervised Visitation Programs: A Report from the Clearinghouse on Supervised Visitation*. Florida State University, Institute for Family Violence Studies, College of Social Work, Retrieved January 7, 2009 from http://familyvio.csw.fsu.edu/1996/BigDig1_2007.pdf.

In this report, the authors summarize data collected between January 2005 and September 2006 from 47 programs providing court-ordered supervised visitation services. The findings indicate that centers across Florida provide services on different schedules and hours, largely have a mixture of volunteer and professional staff, and derive funding from a number of public and private sources. The authors identify two primary concerns with regard to the administration of supervised visitation programs in Florida: lack of sufficient funding and absence of uniform standards. The authors recommend that visitation programs employ professional security personnel, that community-based care organizations adhere to reporting obligations, and that certified programs receive adequate operating funds.

Dunn, J.H., Flory, B.E., and Berg-Weger, M. (2004). "An Exploratory Study of Supervised Access and Custody Exchange Services, The Children's Experience." *Family Court Review*, volume 42, 60-73.

This study examines how well supervised visitation services facilitate child adjustment in high-conflict custody and visitation disputes. The data providing the basis for the study result from outcomes research. Part I of the study focuses on: 1) the frequency and consistency of non-custodial visitation during the six-month study period, and 2) the level of inter-parental conflict initiated between the parties during the period. The study offers evidence of improvement in the frequency and consistency of visits and of declines in inter-parental conflict. Part II of the study focuses on children's adjustments to changes in the family and changes in parenting attitudes over the six-month duration of the study. Prior research has shown that children who are subjected to high-conflict custody and visitation disputes typically display a wide range of maladaptive behaviors. This study explores whether children's adjustments to their changed circumstances are enhanced in a protected setting that provides families with opportunities to maintain contact without conflict. The report documents positive changes in parenting attitudes. Parents who participate in supervised visitation with their children are less likely to condone the use of physical discipline and less likely to engage in verbal threats or physical aggression during pick-up and drop-off transfers. Children's adjustment behaviors, such as aggressive, delinquent, or destructive behavior, anxiety and depression, somatic complaints, or social problems, stabilize as inter-parental levels of conflict decrease. The authors suggest that the resulting absence of maladjustment in the child participants is a hopeful outcome of these programs.

Edwards, L.P. (2003). "Judicial Oversight of Parental Visitation in Family Reunification Cases." *Juvenile and Family Court Journal*, volume 54, summer issue, 1-24.

The author of this article is a retired Judge of the Santa Clara County Superior Court in San Jose, California, and Past President of the National Council of Juvenile and Family Court Judges. He advocates for expanded oversight by judges who order visitation in child protection and family reunification cases. He argues against assigning responsibility for determination of terms of visitation to social workers employed by the agency providing supervised visitation for two reasons: it inappropriately abdicates judicial responsibility, and it risks subjecting parents and children to performance plans based on agency limitations rather than on family needs. Judge Edwards suggests that reunification plans should be individually established with families, with particular attention directed to behaviors that need to change and to the developmental needs of the children involved. His recommendations include the promotion of programs that enhance the quality and quantity of parent-child visitation. He also suggests defining supervised visitation more broadly as a *critical* and *essential* element of the child protection system.

Florida Supreme Court (1999). "Minimum Standards for Supervised Visitation Program Agreements." Retrieved February 8, 2009 from http://familyvio.csw.fsu.edu/IJ/judges-manual/appendix/app_a.pdf.

The Florida legislature has authorized the Florida State University Clearinghouse on Supervised Visitation to develop minimum standards for supervised visitation programs and to devise and administer a system of certification and oversight for those programs. Until the Clearinghouse develops and implements the standards, programs accepting court referrals must agree to adhere to the minimum standards adopted by the Florida Supreme Court in 1999. These standards represent common understandings of basic terminology, roles, and purposes. Under these standards, supervised visitation programs are to enter into a program agreement or a written understanding between the court and an independent provider of supervised contact services, which addresses the scope of services and the procedures for communicating with the court.

Flory, B.E. and Berg-Weger, M. (2003). "Children of High-Conflict Custody Disputes: Striving for Social Justice in Adult-Focused Litigation." *Social Thought*, volume 22, 205-219.

This article describes the formation of Heritage House, a public/private partnership between the St. Louis City Family Court and Provident Counseling, a private not-for-profit mental health agency. Heritage House provides court-ordered supervised visitation and exchange services and functions as an adjunct court service during periods between court appearances and other court processes. Licensed clinicians at Heritage House assess children's emotional stressors and also conduct parent interventions to help them focus on the children's best interests. By rejecting definitions of parents in "fitness" terms, Heritage House staff assists the court by providing factual accounts of "strengths-based" behaviors, thus avoiding the need to use staff as expert witnesses in defense of particular custody arrangements. The authors argue that social science research has been

incorporated into custody proceedings through modifications to custody evaluation procedures. They add that supervised visitation offers a substantive role for social science inquiry into how best to promote improved contested custody case outcomes. To that end, Heritage House interventions have increased visitation frequency and decreased inter-parental conflict. Child well-being has remained stable over the course of the study with no significant decline in adjustment behaviors, as is expected for visitations laden with conflict. In conclusion, the authors call for increased collaborative efforts between social services agencies, the criminal justice system, and the courts. The authors also call for the implementation of empirically-based program evaluations to ensure the efficacy of program services at supervised visitation centers serving high-conflict families.

Flory, B.E., Dunn, J., Berg-Weger, M., and Milstead, M. (2001). "An Exploratory Study of Supervised Access and Custody Exchange Services." *Family Court Review*, volume 39, 469-486.

This exploratory study uses parental experience reports to document outcomes suggesting that collaboration between the 22nd Judicial Circuit of Missouri, St. Louis City Family Court and a private mental health agency has succeeded in providing safe visitation and custody exchange services in a neutral, family-friendly environment. The study is prompted by research indicating that children born in 1990 have a 50% chance of having the courts decide where and with whom they will live, that nearly one third of divorcing parents remain locked in custody disputes three to five years after divorcing, and that one tenth of those disputes involve high-conflict parents who return to court multiple times to re-litigate custody decisions. The findings suggest that staff efforts to mitigate distorted beliefs held by ex-partners about each other and their relative parenting skills, to bridge disputes about these issues, and to create a new context for interactions have reduced inter-parental conflict significantly. The authors conclude that a careful collaboration between social services providers and the courts can address the unmet needs of family courts for services for their high-conflict domestic clients.

Gische, J.J. (2000). "Domestic Violence as a Factor in Custody Determinations in New York State." *Fordham Urban Law Journal*, volume 27, 937-944.

The author addresses some of the problems encountered in the effort to resolve custody and visitation disputes involving domestic violence. New York is one of the last states to adopt a legislative presumption that it is detrimental to a child when custody is awarded to an abusive spouse. The New York statute falls short of adopting a presumption against awarding custody to a battering parent, and, instead, only mandates that the courts consider domestic violence as a factor in making such awards. The author asserts that New York's statute reflects the tension between the strong public policy in favor of protecting children from the effects of a violent household and the concern that one parent might raise a generalized claim of violence to gain an unfair advantage in a custody or visitation dispute. The author calls for legislative clarity as a remedy. She asserts that in order for the courts to give the domestic violence factor proper consideration in custody and visitation disputes, the legislature should either support judicial discretion by re-defining the factor broadly to include, for example,

psychological and verbal abuse, or affirm the more limited statutory definition in the New York Family Court Act § 812(1). Monetary resources must be found to create or expand current programs so that the court can order supervised visitation with confidence as a feasible safeguard for visitation with a potentially abusive parent.

Jaffe, P.G., Johnston, J.R., Crooks, C.V., and Bala, N. (2008). "Custody Disputes Involving Allegations of Domestic Violence; Toward a Differentiated Approach to Parenting Plans." *Family Court Review*, volume 46, July issue, 500-527.

In this article, the authors argue for a method of risk assessment that screens for *potency*, *pattern*, and *primary perpetrator* in the domestic violence context. They propose that parenting plans should be tailored to respond to risk assessment results. The plans range in intrusive impact from highly restricted access (i.e., no contact or supervised access) to relatively unrestricted child access plans with low intrusive impact (i.e., parallel parenting or co-parenting). Under this scheme, supervised visitation is appropriate in cases where: (1) the assessment reveals high potency ratings for violent behavior, (2) there is current or recent violence, (3) relationships are abusive, (4) current parental substance abuse and/or acute mental illness exists, (5) ambiguity in assessment results is evident, (6) parents present with an established risk of child physical or sexual abuse, (7) abduction threats have been made, (8) there is evidence that the child is traumatized but wants to continue contact and stands to benefit from continuing involvement with the visiting parent.

Kelly, J.B. and Johnson, M.P. (2008). "Domestic Violence: Differentiation Among Types of Violence: Research Update and Implications for Interventions." *Family Court Review*, volume 46, July issue, 476-496.

The authors describe four patterns of violence among intimate partners: coercive controlling violence, violent resistance, situational couple violence, and separation-instigated violence. The authors argue that differentiation among types of violence allows a more sophisticated and tailored intervention with respect to the determination of court processes and referrals to social service providers. The article cites a California Family Court study of 2,500 families with custody and access disputes. In 76% of the cases, intimate partner violence has been reported by at least one parent, though most of the violence is not recent and is not raised before or during mediation. The data suggest that the violence may have been situational, mutual, or not deemed important enough to bring up in mediated discussions about the children. The authors propose that the patterns of violence demonstrated should be understood with a greater degree of specificity before the court decides on an appropriate mediation strategy, the most effective parent education program, custody and access arrangement, or batterer intervention approach. The authors believe that treatment programs designed to address specific types of violence are more likely to have a positive impact on underlying issues than programs with more general applicability.

Lee, D.H. (2007). "Viewing Family Court Practice Through the Prism of Purpose." *Columbia Journal of Law and Social Problems*, volume 40, 647-652.

A working group of experienced practitioners attempting to re-imagine the structure of the New York Family Court addresses a fundamental question: what is the primary purpose of the Family Court when faced with intra-family disputes? Two competing answers emerge: 1) adjudicating legal disputes, and 2) addressing underlying problems in family disputes. The author uses supervised visitation as an example of a resource “necessary to effect a court-ordered remedy,” often flawed in application, but unanimously recognized by the group as legitimate because it has been shown to work (i.e., supervised visitation accomplishes the safe contact with children by non-custodial parents most of the time). In contrast, court-ordered participation in parenting classes, job training, or anger management programs is not supported because empirical evidence concerning their effectiveness had not been established. The author argues for the establishment of a research component in the Family Court to collect, evaluate, and communicate data about its performance. By empirically testing the legitimacy of innovative approaches, the Family Court can develop empirical evidence and build a case to support and sustain the political will necessary to implement change.

Lee, R.E. and Stacks, A.M. (2004). “In Whose Arms? Using Relational Therapy in Supervised Family Visitation with Very Young Children in Foster Care.” *Journal of Family Psychotherapy*, volume 15 (4), 1-14.

The authors assert that relational therapy utilized in court-ordered supervised visitation programs provides an opportunity to positively enhance family reunification efforts when very young children are placed in foster care. By combining supervised visitation with this psychotherapeutic intervention, the therapist interacts with the biological parents in concert with or in place of other court service providers (e.g., foster care agencies, parent education programs and mental health services). The authors point to the successful return of children to biological parents in 21 of 24 cases referred to their relational therapy, supervised visitation program. The authors contend that the program offers parents their best opportunity to acquire parenting skills and to demonstrate competencies.

Maxwell, M.S. and Oehme, K. (2004). “Referrals to Supervised Visitation Programs: A Manual for Florida’s Judges.” *Clearinghouse on Supervised Visitation, Institute for Family Violence Studies, School of Social Work, Florida State University*, at <http://familyvio.csw.fsu.edu/IJ/judges-manual/toc.pdf>. Retrieved September 19, 2008.

In response to a judicial survey conducted by the Clearinghouse on Supervised Visitation in 2003, the authors have constructed a useful resource manual for judges. The authors suggest the manual may be used in several ways: as a primer on Florida’s Minimum Standards for Supervised Visitation Program Agreements; as resource to assess possible risks for each type of referral; and as a source of guiding principles. The manual includes best practices for judicial referrals in specific kinds of cases. The authors focus on two issues: domestic violence and child sexual abuse. This comprehensive reference guide addresses many issues facing judges who must decide complex child access cases.

Maxwell, S., Vinton, L., and Oehme, K. (2003). "Survey of Judicial Practices Regarding Florida's Supervised Visitation Programs." *Clearinghouse on Supervised Visitation, Center for Family Violence Studies, Florida State University* at http://familyvio.csw.fsu.edu/IJ/Survey_on_Judicial_Practices.pdf. Retrieved September 24, 2008.

This article reported on the results of a survey of Family Court judges in Florida. Eighty-two judges responded to the survey representing all of Florida's judicial circuits. The survey was designed to assess how judges approached supervised visitation issues. Judges were questioned about hearings on matters related to marital dissolutions, modifications of custody orders, domestic violence, child dependency, child support, and delinquency. Results revealed the discrepancies between judicial impressions of how supervised visitation programs should operate and how they actually operated. A slight majority of the judges (52%) indicated that they had not visited a supervised visitation center and more than half of the respondents did not know what security measures were in place at their supervised visitation programs. A large percentage (88%) of the respondents wanted to be more familiar with the research on the incidence of child victimization at supervised visitation programs. Based on the survey results, the Clearinghouse formulated a series of recommendations to increase judges' knowledge of the specific issues, particularly, issues surrounding child sexual abuse, present in some families referred to supervised visitation programs, to prevent the re-victimization of parties receiving these court-ordered services.

McWey, L.M. and Mullis, A.K. (2004). "Improving the Lives of Children in Foster Care: The Impact of Supervised Visitation." *Family Relations*, volume 53, number 3, 293-300.

The purpose of this study is to test a model of supervised visitation. The authors measure the quality of parental attachment of 123 children in foster care undergoing supervised visitation with their biological parents. Results indicate that, for families in which reunification is a goal, children who have more consistent and frequent contact with their biological parents have stronger attachments than children who have less contact. In addition, children with higher levels of attachment have fewer behavioral problems, are less likely to take psychiatric medication, and are less likely to be "developmentally delayed" than are children with insecure attachments. In discussing the implications of the study's findings, the authors suggest that it is advantageous to consider the positive impact of consistent parent-child contact after placement in foster care on children's well-being. Other studies indicate that children with weak parental attachments require high levels of medical, developmental, and behavioral intervention. Improving the lives of children in foster care is accomplished best by helping foster parents understand that biological parental visitation promotes healthier parent-child relationships in the present and better adjustments in foster care, and enhances the child's capacity to form healthy relationships in adulthood.

Oehme, K. and Maxwell, S., (2004). "Florida's Supervised Visitation Programs: The Next Phase." *Florida Bar Journal*, volume 78, January issue, 44-51.

After noting the extraordinary growth in the number of supervised visitation programs across Florida in the last ten years, the authors document a number of issues that persist in these programs involving safety and communication between service providers and the court. The article presents a persuasive argument for implementing program enhancements to address these issues. The authors recommend augmenting security measures and staff training, as well as improving the quantity and specificity of the information that accompanies referrals from the court. The authors suggest that legislative action is required to mandate uniform training and compliance with minimum performance standards and to provide protections for supervised visitation workers from suits by parents. Without these safeguards, program effectiveness and availability could be undermined. The authors' recommendations also include the creation of an entity with oversight responsibility to establish a statewide certification process for supervised visitation programs. Finally, they recommend that reports produced by supervised visitation staff should not be used in court to aid in custody decision-making.

Salem, P., Kulak, D. and Deutsch, R.M. (2007). "Triaging Family Court Services: The Connecticut Judicial Branch's Family Civil Intake Screen." *Pace Law Review*, volume 27, summer issue, 741-784.

The authors present a brief history of the development of a "triage" system for delivering critical court services by the Connecticut Judicial Branch-Court Support Services Division (CSSD). The CSSD Family Services Unit has developed a research-based screening instrument designed to match the characteristics of families in dispute with the most appropriate intervention. The Family Civil Intake Screen examines six domains: (1) General Information; (2) Level of Conflict; (3) Ability to Cooperate and Communicate; (4) Complexity of Issues; (5) Level of Dangerousness; and (6) Disparity of Facts/Need for Corroborating Information. Screening is conducted in person at the beginning of the first scheduling conference. A counselor reviews each section of the screening and identifies one of three general approaches: (1) mediation if conflict levels are low and the parties are able to communicate effectively; (2) a conflict resolution conference if parties have limited ability to communicate and the level of conflict is moderate or mildly chronic; and (3) issue-focused evaluations when conflict levels are high, the family is in crisis and needs a rapid response, and the complexities of the case require multiple interventions. A positive evaluation of the effectiveness of this screening has been supported by continuing long-term analysis examining the timeliness of case completion, settlement rates, length of time families are in the system, and rates of return to court for re-litigation. The Connecticut courts use screening results as a guide in making visitation and access determinations.

Sheehan, G., Carson, R., Fehlberg, B., Hunter, R., Tomison, A., Ip, R., and Dewar, J. (2007). "Divergent Expectations and Experience: An Empirical Study of the Use of Children's Contact Services in Australia." *International Journal of Law, Policy and the Family*, volume 21, 275-301.

This article summarizes the findings of two studies designed to explore the assumption that conflicting expectations between the courts and families assigned to supervised visitation could compromise children's well being. The authors discuss the tension

between the therapeutic focus of the court-funded supervised visitation programs and the economic incentive for private programs to generate as many visits as are feasible. The authors believe that these conflicting agendas risk children's mental health. The study recognizes several categories of clients as unlikely or unable to transition to parents capable of managing unsupervised visitation. These include families in which one or both parents are mentally ill, chronic substance abusers, intellectually disabled, or present with a history of extreme domestic violence. Additionally, families where children have been physically or sexually abused, where the children fear the contact parent, or where a threat of child abduction exists are unlikely to transition into self-managed, unsupervised visitation. The authors conclude that addressing parents' underlying problems in the context of supervised visitation would demand a radical expansion in the role of service providers by requiring them to deliver multiple, coordinated interventions that extend beyond the current boundaries of bolstering the parent-child relationship.

Stern, N. and Oehme, K. (2005). "Defending Neutrality in Supervised Visitation to Preserve a Crucial Family Court Service." *Southwestern University Law Review*, volume 35, 37-60.

This article discusses neutrality in family court cases and how supervised visitation providers who assume partisan roles in disputes threaten the credibility, sustainability, and safety of supervised visitation programs. Because workers have an insufficient understanding of the dynamics of family violence and an incomplete understanding of the legal doctrine of neutrality, the recommendations judges sometimes ask from them create additional burdens for victims of domestic violence. To avoid compromising their program's credibility by submitting biased reports to the court, supervised visitation staff should follow the judicial model of strict neutrality. Staff who "take sides" undermine the essential objectivity of the program and may increase the danger for victims of domestic violence by unnecessarily provoking abusers. Programs that advance agendas inconsistent with neutrality, such as fathers' rights groups or advocates for the victims of domestic violence, may gradually lose court referrals and ultimately the basis for funding support.

Stern, N., Crook, W.P., and Oehme, K. (2008). "Visitation Decisions in Domestic Violence Cases: Seeking Lessons from One State's Experience." *Wisconsin Journal of Law, Gender & Society*, volume 23, number 1, 113-134.

The authors examine data collected by Florida State University's Clearinghouse on Supervised Visitation. The Clearinghouse has collected data on 5,776 cases, 8,738 children, 23,105 adult clients, and 77,988 services since January 2005. This distinguishes Florida as the only state tracking the statewide use of supervised visitation for all types of referrals, including domestic violence, child abuse and neglect, and separation and divorce cases. The report presents a demographic profile of cases of supervised visitation in Florida, but it focuses particularly on one surprising finding: the higher than expected percentage of women in the group of non-custodial visitors (36%) at supervised visitation centers. The authors suggest that one possible explanation for this may lie in the prevalence of mental health and substance abuse problems among many domestic

violence victims. According to the authors, assigning children to the custodial care of a battering father and limiting the substance abusing mother's contact with her children in a supervised visitation setting may endanger children and constitute a misguided assessment of the victim's responsibility for dysfunctional behavior and her potential for recovery. If additional research confirms the interrelatedness of violence, substance abuse, and mental illness, the implications for supervised visitation decisions are profound.

United States Department of Justice, Office on Violence Against Women (2006). *2006 Report to Congress on the Safe Havens: Supervised Visitation Program*. Washington, DC: U.S. Department of Justice, Office of Violence against Women.

This report summarizes the purpose, organization, funding, and program outcomes associated with Safe Havens: Supervised Visitation and Safe Exchange Grant Program. Grants provided through the program underwrite community initiatives to support the supervised visitation and safe exchanges of children—by and between parents—in situations involving sexual assault, domestic violence, child abuse, or stalking. The information in the report was provided by 66 grantees during the period from December 2003 to June 2005 and includes program participation data, with 1,700 to 2,500 families having received direct services. It includes ethnicity, age, and gender data for custodial and non-custodial parents, and children served. Program challenges reported by grantees include security, training for court personnel and police officers about the impact of domestic violence on families and children, and collaboration among agencies to coordinate information and services.

Young, S.A. (2005). "A Presumption for Supervised Visitation in Texas: Understanding and Strengthening Family Code Section 153.004(e)." *Texas Tech Law Review*, volume 37, number 2, 327-354.

It is a rebuttable presumption that it is not in the best interest of the child for a parent to have unsupervised visitation with the child if credible evidence is presented of a history or pattern of past or present child neglect or physical or sexual abuse by that parent directed against the other parent, a spouse, or a child. Tex. Stat. Section 153.004(e).

The author addresses the ambiguous passages in the Texas Family Code that sometimes fail to trigger the rebuttable presumption against unsupervised visitation when a *history or pattern* of domestic violence is at issue and makes a series of recommendations to strengthen and expand the protective range of the code. The recommended statutory additions include changes to the language of the code to broaden the scope of the forbidden behavior, automatically trigger the presumption for weapons-related injuries, grant greater weight to the nonviolent parent's choice of supervisors, assign costs disproportionately to the abusive parent, and establish a statewide visitation network administered by various Texas universities.