I am delighted to welcome readers to this first issue of the *Bar & Bench Visitation Report*. This newsletter has been developed in response to the requests of supervised visitation providers, family law attorneys and judges for a vehicle to discuss judicial and legal issues impacting orders for supervised visitation. The *Visitation Report* provides a unique opportunity to discuss common concerns, develop practice and judicial standards as well as to identify problems in the provision of supervised visitation and/or monitored exchange.

The Clearinghouse on Supervised Visitation is a component of The Institute for Family Violence Studies located in the School of Social Work at Florida State University. Since 1995, the Clearinghouse has served as a resource on supervised visitation issues. In this capacity, Clearinghouse staff has conducted needs assessments for providers, analyzed security needs, and provided technical and legal assistance. In 1998, the Clearinghouse produced a competency-based training manual for Florida’s supervised visitation providers that is now being used across the country. Since 1995, we have published a quarterly newsletter, *The Networker*, now distributed to over 500 individuals or organizations nationally. This past summer, we instituted a webpage for the Clearinghouse (familyvio.ssw.fsu.edu) which hosts live “chats” on visitation issues, provides a calendar for upcoming events, provides technical advice columns, and lists emerging state legislation on visitation.

This year an advisory board composed of state and national leaders on supervised visitation was formed to advise Clearinghouse staff on issues. We are delighted to have Judge Peter M. MacDonald, Judge George Reynolds, Robin Hassler Thompson, Lynn Rosenthal, John Haynes, Robert Straus, Maureen Sheeran, and Scott Hampton agree to serve as our advisors.

In 1998, the Clearinghouse hired a project attorney, Karen Oehme, to provide legal assistance to program directors, judges, and others. Ms. Oehme has assisted programs and court staff in developing court orders for visitation as well as responding to legal questions and concerns presented by program staff. Her expertise has been invaluable in meeting our goal of providing technical assistance.

Our first issue of the *Visitation Report* targets issues related to the use of supervised visitation for domestic violence cases. We are pleased to include excerpts from Robert Straus’s 1995 pathbreaking article from *The Family Law Quarterly*, as well as Maureen Sheeran and Scott Hampton’s recent examination of current developments in the area from *The Juvenile and Family Court Journal*. Our next issue in Spring, 2000 will devote attention to the use of supervised visitation in dependency situations.

The success of this newsletter will in part be due to the willingness of judges, family law attorneys, clerks, and providers in assisting us in defining issues, recommending consistent court orders, and understanding the services and limitations of programs. We welcome your participation, guidance and suggestions in this regard. Contact Karen Oehme at 850-644-6303 (ext.1) with questions/comments.
SUPervised Visitation
In Cases of Domestic Violence

By Maureen Sheeran and Scott Hampton, M.A.

The ongoing risk perpetrators of domestic violence pose to victims and children after separation has led to the development of new laws and services designed to address one crucial area of concern: facilitating safe contact between perpetrators of domestic violence and their children. Specifically, many states have passed laws giving courts broad discretion to order supervised visitation in cases involving domestic violence. As supervised visitation becomes increasingly recognized as a potential tool for protecting battered women and their children, communities are mobilizing to develop supervised visitation services that are safe and appropriate for cases involving domestic violence.

Parent-Child Access

Society places an enormous value on parents' right to continued access to their children. For judges, a key consideration is the "role of the judge as a protector of the parental right of access to the child, as well as the child's right of access to one's parents." Either by legislation or through common law, most jurisdictions "recognize the importance of parent-child contact" when parents separate.

Given the dangers of domestic violence, how do courts and communities find a balance between the value of ongoing parent-child relationships and the need for safety for children and victimized parents?

Need for Heightened Security

Safety of the children and victim-parent are the overarching concerns in supervised visitation in the context of domestic violence. The dangers posed by batterers are well documented. Therefore, visitation centers working with cases

![Table 1: Risk Assessment for Courts and Visitation Providers](image)

Screening for risks is important to both visitation providers and courts. Courts often request risk and lethality assessments to determine the level of risk that a batterer poses to his family's safety. Common risk factors screened for during such an assessment include:

- Escalation of physical or other forms of violence
- Recent acquisition or change in use of weapons
- Suicidal or homicidal ideation, threats, or attempts
- Change in substance use/abuse patterns
- Stalking or other surveillance/monitoring behavior
- Centrality of the victim
- Jealousy/obsessiveness about, or preoccupation with the victim
- Mental health concerns connected with violent behavior
- Other criminal behavior or injunctions
- Increase in personal risk taking (e.g. violation of restraining orders)
- Interference with the victim's help-seeking attempts
- Imprisonment of the victim in her home
- Symbolic violence including the destruction of the victim's pets or property
- The victim's attempt to flee the batterer or to terminate the relationship
- Batterer's access to the victim or her family.

None of these indicators alone suggest that a batterer will kill his partner or commit other severe forms of violence. Generally though the more indicators that are present the greater the risk. Also, an effective risk assessment will focus not only on the presence of risk factors, but also on recent changes in behavior suggesting an escalation of risk.

involving domestic violence require procedures designed to reduce risks brought on by domestic violence. To enhance safety, some centers establish such procedures as:

- Ensuring that facilities and procedures preclude contact between the custodial and non-custodial. For example, centers can have parents arrive and leave at separate times, park in separate parking lots, enter through different entrances, and wait in separate areas. Assuming the non-custodial parent is the offending parent, safety can be enhanced by having the non-custodial parent arrive 15 minutes prior to the visit and wait 15 minutes after the visit before leaving the facility; and the custodial parent arrive and leave immediately prior to and after the visit.
- Providing on-site security.
- Screening all cases for domestic violence.
- Refusing cases too dangerous for centers to handle safely.
- Developing policies to enhance confidentiality, such as maintenance of separate files for the perpetrator-parent and the victim-parent.

### Need for Understanding the Dynamics of Domestic Violence

Given the unique dynamics of domestic violence, visitation supervisors working with perpetrator and victims of domestic violence and their children should have an in-depth understanding of the dynamics of domestic violence. In Massachusetts visitation centers that receive funding from the Domestic Violence Unit of the Massachusetts Department of Social Services “should be grounded in the belief that domestic violence is an attempt by one family member to gain control over other family members.” Service providers are expected to understand the dynamics of domestic violence, “including the involvement of and impact on children,” and the importance of batterer accountability.

In order to develop a better understanding of domestic violence and to ensure that programs are rooted in that understanding, it is recommended that visitation providers receive significant training in domestic violence and that visitation programs develop affiliations with domestic violence victim and perpetrator service agencies.

### Need for Case Oversight

Dependency cases have child protection case workers and case or service plans. In contrast, domestic violence cases involved in supervised visitation programs and not involved in child protection proceedings seldom have case workers or mechanisms for ongoing case oversight other than judicial review. Child protection cases are marked by services designed to move families out of the dependency process. Traditionally, that is not the case in family court cases, including those with allegations of domestic violence. Given the lack of service plans and independent evaluations in family violence cases, judges often look to visitation supervisors to make more evaluative determinations than supervisors feel qualified to make. And, given the context of supervised visitation, the information visitation supervisors can provide to courts is of limited value to judges. What a visitation supervisor sees is a “snapshot” of a parent and child together for a brief moment in highly artificial circumstances where the parent is aware of the observation. This observation is not an adequate predictor of how the batterer will relate to the child in another setting and under other circumstances.

### Cautions & Conclusions

While visitation centers and services are becoming important pieces in a coordinated response to domestic violence, a number of key considerations remain: visitation centers are not a guarantee of safety for vulnerable family members; they do little to improve the ability of a batterer to parent in a responsible, non-violent way; and funding for supervised visitation centers and services is uncertain.

Visitation centers can help reduce some of the risks of violence during parent-child contacts, but in no way eliminate all danger and in some circumstances actually increase danger. Some non-custodial parents attempt to use visitation centers as a vehicle for gaining access to their victims.

Reprinted with the permission of the National Council of Juvenile & Family Court Judges, Family Violence Department. Excerpted from Juvenile & Family Court Journal, Spring 1999. Both authors are members of the Clearinghouse Advisory Board.
I attended the 1999 International Supervised Visitation Network’s, annual conference in Nashua, New Hampshire. I was invited to give the Keynote Address, mainly because of my work in the area of domestic violence, and the conference planners wished to introduce the dynamics of abuse in the family to those who were not yet familiar with the intricacies of family violence. I believe that I learned much more about supervised visitation than I taught about domestic violence. I attended all of the plenary sessions and the workshops/breakout session that held interest for me. I have come from a background of supervised visitation from my 15 years of experience in juvenile court, but I have not actually presided in juvenile court for almost six years. It is also important to note that my jurisdiction does not have a free standing visitation center, but I will do all in my power to see that we do get one in the near future. I was impressed by the dedication and knowledge of the attendees about supervised visitation issues. But, I also realized that those who deal with the issues of supervised visitation need to know the dynamics of relationships where domestic violence is present, and to know that judges are participants in the process, and judges must learn about supervised visitation centers – what they can provide, what their limitations might be, and what judges can do to become involved in the supervised visitation process.

Judges must understand domestic violence. To proceed to order visitation in cases where family violence is present without understanding the dynamics of these most troubling of all cases is to invite tragedy. Judges should recognize that almost always women and children are the victims, either directly or indirectly. The paramount interest of the court should be the safety of the mother and the children. Any visitation order should be clearly written to ensure the safety of the participants. Judges should believe the victim who alleges acts of domestic violence. Too many judges believe that women file for orders of protection so that some tactical advantage can be gained. This may be true, but only to a very limited degree if the court sets a standard for excellence in hearing cases of domestic violence. To make a mistake by not believing the victim may be indirectly aiding in that victim’s homicide. Judges should use assessment tools to determine if visitation is even viable. If the assessment demonstrates that the parent requesting visitation is currently too dangerous, the court should of course consider denying visitation, at least until the non-custodial parent has completed a treatment program with a more favorable assessment.

It is a given that the development of supervised visitation centers can provide an important tool for judges who, on a daily basis, deal with cases that seem to have no appropriate resolution for the parties involved. These are the most difficult cases that are in the domestic violence court, the family court, the divorce court or the juvenile court. It is very common for a judge to agonize over the issue of visitation where one, or both, of the parents raise issues that give the judge reason to believe that supervised visitation would be appropriate. The advent of the supervised visitation centers has given the judge one more tool to use in ensuring that children, and their parents, will be safe and secure when visitation is ordered.

If you are a judge who is fortunate enough to have a supervised visitation center, I believe that it is absolutely essential that you set up an appointment so that you can visit the center, get to know the staff, learn the procedures of the process, ask for copies of protocols, and know what exactly is going to occur when you utilize the center in the visitation order. It would be beneficial to meet on a regular basis, perhaps quarterly, with the staff of the center so that you could discuss particular cases, discuss security and record keeping, and discuss on an informal basis what is working and what needs to be accomplished to improve the operations of the center. Judges should keep abreast of what type of training and education the staff of the center is receiving and if there is a large turnover of the staff. If your particular jurisdiction has minimum standards for supervised visitation centers, learn them and determine whether your center has met the basic requirements of safety and service for the participants.

The Importance of Judicial Case Review

Even if you are one of the fortunate ones
who has a visitation center, or will in the future, it is vitally important that the judge continues to review the visitation process in each case. It is all too easy to refer a family to the visitation center and then forget about what occurs from that point on. Frequent case reviews are important. If the judge maintains control over the parties, there is less chance that violence will occur in that relationship. If the court has regularly scheduled hearings on the progress of the parties the court will learn first hand what, if any substantial changes have been made. It is important to not rely solely on the reports of the guardian ad litem, the social worker, or the batterer’s intervention provider. Court reviews allow the parties to appear and the judge to determine for himself or herself what progress is being made in the visitation process. Each supervised visitation case should have an ultimate goal and judges should be aware that the supervised visitation is not the goal, just a tool for keeping the parents in contact with their children. But, it is a very valuable tool to allow that ongoing contact with a child while the parent(s) is receiving treatment for the underlying reason for the supervised visitation. This treatment may be for battering, substance abuse, inappropriate discipline methods, or any number of other reasons.

Judges should expect, and in fact, require periodic reports about the visitation process. If the judge does not set specific guidelines, it may be that the center will provide reports that only say that “the visit went well.” Communication between the court and the center is crucial to the success of the program. Develop written guidelines and protocols for the center to use in delivering periodic reports. Decide for yourself how extensive these will be. Decide if you want them at the review hearing, to be filed in the court file, or some other combination that guarantees information sharing. It is not possible for the court, the guardian ad litem, the attorneys for the parties, the social workers, and the treatment providers to work in a vacuum. The information must be shared, and the information must be meaningful, for the visitation center to perform its intended function.

Lethality Assessment

Judges who utilize supervised visitation centers should be aware that there will be some few cases that do not lend themselves to the supervised visitation center process. There are simply some individuals who are so dangerous that the staff of the center will not want to provide services for these individuals. How is this determined? The court should utilize lethality assessments to determine which individuals are not appropriate for the center. The court should be willing to give the power of rejection to the director of a visitation center. To do otherwise is inviting tragedy. Some individuals will use the visitation center to stalk and harm or even kill their former partner. The judge and the staff of the center should set parameters so that each understands the other’s rationale for referring and rejecting individuals for visitation center use.

Visitation centers can perform invaluable services. It is important for the judge utilizing them to become involved and to insure that all of the participants understand their roles, for parameters to be set for all participants, and for meaningful information sharing. When there is a close relationship established, the opportunity for a successful visitation program is greatly enhanced.

Judge Macdonald is President of the District Judges Association, Kentucky and a member of the Clearinghouse Advisory Board.
Providers of supervised visitation operate at the intersection of legal and social services by performing a rapidly evolving set of functions with which courts and family lawyers are becoming increasingly familiar.

The issues presented are complex. The importance for a child's development of continued contact with both parents has to be balanced against the negative effects of contact if there is intractable conflict between his or her parents. Serious allegations of abuse and risk are matched by denial and counterclaims of interrupted access. Many of these cases urgently need a protected setting in which contact can occur.

Special risks are associated with contact between children and parents where there is a history or allegations of violence between parents... The highest risk of violence is the period immediately following an abused woman's move to end the relationship. Other than court appearances, the drop-off and pick-up of children for each visit is the only time when a batterer has access to his former partner. Children are traumatized by screaming fights at these points. Worse, these times are also when children and their parents are injured or killed. Therefore, there exists an urgent need for protected settings for the safe transfers of children between parents.

Risk during transfers is only one of the dangers. There is also a high degree of overlap between partner abuse and child abuse. When both child and partner abuse have occurred, the contacts with the children as well as the transfers need to be protected. Even without a history of child abuse, an abusive parent may still try to use the children manipulatively to force the abused partner to return or try to retaliate through the children. Therefore, if contact with the abusive partner is granted, the children and the custodial parent need to be protected from these manipulations.

Supervised Visitation Services

Supervised visitation is actually a range of services which vary according to the degree of closeness of the observation, the training of the observer, and the site for the contacts. “One-on-one” supervision with an observer present at all times is necessary when issues of safety or parental manipulation of a child are compelling. Supervision can be less close, intermittent, or conducted in a group when the risk is lower. “Exchange supervision” is observing the transfer of child(ren) at the start and end of visits. This supervision can protect the safety of parents when a history of abusive behavior is present or when a child is upset by transfers. In “off-site” monitoring, a supervisor accompanies the non-custodial parent and child(ren) as they spend time together away from a program center. Visits supervised off-site can serve as a transition as parents move toward unsupervised access.

Virtually all supervised visitation programs provide some form of documentation of parent-child contacts. The courts or referring agencies frequently ask supervisors of visits for reports on the progress of contacts. Documentation varies from minimal recording of attendance to standardized checklists to detailed observation notes. Programs, particularly those dealing with children removed from the home, may also provide transportation of children between the custodial (or foster) home and the visiting site. Education and support groups and referrals to mental health, legal, or other social services are common ancillary services.

Recently, formulated standards in Australia take the view, which I share, that supervised visitation programs are best designed to provide factual material in the form of notes of observations of the parent-child contacts but should not offer opinions about future contact.

Because supervised visitation is relatively inexpensive compared to an evaluation by a trained clinician, there is a real danger that attorneys, the courts, and the families will pressure programs to assume the role of evaluator.

Courts can help by making specific efforts to identify issues of partner abuse. Whenever abuse appears as an issue and a judge makes a referral for supervised visitation, the judge should include in the order provisions for the allocation of fees. Judges can...
also anticipate that program reports will be factual and not request opinions about prior abuse or future access.

**Referral by a Court or Agency**

When making a referral for supervised visitation, the referring agency or court should consider whether partner abuse or child abuse is currently an issue in the family or has been previously. If there are allegations of family violence, then the referring agency must specify the expected frequency of visits and apportion the fee, if any, between the parties. Attorneys can help their clients by having the court or referring agency include these essential elements in the plan for supervised child access. When an evaluation of family violence is pending, a court should resolve the fee issue by ordering a temporary allocation.

Attorneys can help protect their abused clients by reviewing a provider’s security measures. A program should have security procedures which are adequate to provide safety in cases of family violence. These procedures should apply to all families including both custodial and noncustodial adults without implying judgement.

- **a)** The program guidelines should describe parental behavior which is expected and behavior which is not acceptable. Unacceptable behavior includes threatening staff, hanging around the visitation center when not on a visit, lateness, and failing to follow the guidelines or a supervisor’s instructions during visits.
- **b)** Custodial and visiting parents should be required to arrive and leave at different times. Generally, the visiting parent arrives at least fifteen minutes before the visit so the child does not have to wait. At the end of the visit, the custodial parent and the child leave first while the visiting parent waits fifteen minutes to avoid any confrontations or stalking.
- **c)** Unless explicitly agreed, both parents should be kept physically and visually separate.
- **d)** The program should maintain a relationship with the local police department which will facilitate rapid response.
- **e)** Some programs disguise the identity of volunteer and staff supervisors.
- **f)** A security guard is an important safety measure.
- **g)** Metal detectors are also useful.

These last two measures are expensive and will depend on the availability of adequate program funding. Security measures should not substitute for clinical assessment and care. Furthermore, the stance toward and relationship with a potentially dangerous client are also important protections.

Advocates for abused children and for battered women are justifiably concerned that courts will take the reports of supervised visits as indications that an abusive parent has “changed” and is ready for unsupervised contact. A parent’s behavior with a third person in the room for a maximum visit of two hours is not enough basis to predict how that parent will behave with a child during an extended, supervised visit. To diminish this risk, a program should preface any report or observation note submitted to a referring agency with a large print CAUTION. This warning will note that the observations were conducted in a highly structured setting and that inferences should not be made from the notes alone about the appropriateness of future arrangements for parent child contact. If applicable, the caution should include notice that the observers were volunteers or were not licensed mental health professionals.

Programs should include in their written guidelines a statement of additional charges if staff are required to come to court. Since few supervised visitation programs exist and are struggling for survival, the added cost of staff frequently appearing in court can spell the end of a program. However, by charging significant fees for court appearances, attorneys will not subpoena staff unless absolutely necessary. The fees will also help cover expenses if court appearances are required. If it is necessary to bring program record to court, attorneys can help by stipulating to the program’s observation notes and reports as evidence in court of agency proceedings, rather than requiring staff to appear.


**EDITOR’S NOTE:** Effective, safe use of metal detectors requires trained security personnel. Separate entrances/parking lots/waiting areas for parents are essential for SV centers in domestic violence cases. If the parent who is an alleged batterer is the custodial parent, that parent should arrive first to maximize the safety of the vulnerable parent.
A BRIEF HISTORY OF THE SUPERVISED VISITATION NETWORK

In May, 1992, the Supervised Visitation Network began an international association of agencies and individuals involved with supervised visitation services. SVN started from a gathering of the New York Society for Ethical Culture. During this one day conference in New York City, 39 people from 11 states and one from Canada formed the organization in an effort to share information and to establish and improve on supervised visitation as an integral part of services for families.

The mission of the organization is to establish a network for persons dedicated to supervised visitation services, to provide a forum for the exchange of information and supervised visitation services, to develop standards of practice of supervised visitation, to educate professionals and the public about the value of supervised visitation, and to promote public awareness about the need for supervised visitation. Among its many offerings, SVN acts as a resource for information and resources related to supervised visitation practice. Membership provides continuing educational opportunities, information regarding funding and help obtaining public funding in order to establish supervised visitation services.

Today, SVN has 440 members, from 38 states and Canada, Australia, New Zealand, Israel, France, and the Netherlands. At least 148 agencies are members of SVN, including 16 from Florida. At least two members from each region must be represented on the Board of Directors, according to the By-laws. Committees within SVN include Legislation, Program, Standards and Guidelines, Training, International, Publications, Chapter, and Membership. Membership privileges allow members to serve on committees. Chapters are formed within regions and a representative of each chapter must sit on the regional board. The annual SVN conference will be held on April 13-15, 2000 in Vancouver, Canada. For more information about SVN, contact Nancy Fallows at (218)-327-6735.

RESULTS OF FLORIDA SECURITY SURVEY

In the Spring of 1999, the staff of the Clearinghouse disseminated a security survey to all of Florida’s supervised visitation programs to gather data about security practices, prevalence of security problems, and related issues.

Findings indicate that 67% of the programs responding to the survey use on-site law enforcement during the provision of supervised visitation services for domestic violence or other types of family law cases. These law enforcement staff perform a variety of tasks including but not limited to: substance abuse screening; advising staff on security measures; using metal detectors; disarming program participants; making arrests, and redirecting program participants who become angry or out of control.

During the past year, the programs reporting to the survey indicated that there had been over 36 threats to staff or volunteers by participants referred because of domestic violence; 20 threats by other types of family law cases and eleven threats by dependency case referrals. Nine programs also reported threats to staff or volunteers by program participants away from the program site (eg., one director was threatened in a Wal-mart). Two programs reported crimes committed on site by program participants. Other programs reported arrests on site for past due child support, violation of order for protection, outstanding warrants, etc. It should be noted that security problems have been reported all across the state, not just in the more populated urban areas.

In addition to the use of on site law enforcement for security, many programs also use breathalyzers, panic buttons, video cameras, or other security measures.

While these preliminary results indicate that programs address security in a variety of ways, it is also very clear that security is a serious issue that must be constantly addressed to ensure participant safety.
JUDGES’ QUICK SUPERVISED VISITATION CHECKLIST

Before ordering supervised visitation services:

• Meet your center director.
• If possible, walk through the center.
• Be familiar with expertise of staff to determine whether referrals are appropriate.
• Have a designated judge participate in the creation of a standard court order tailored to the resources of the local program.
• Be aware of the services provided (e.g. monitored exchange, parenting classes, therapeutic supervision) and the frequency of visits allowed (e.g. weekly, biweekly).
• Know whether there is a waiting list.
• Have the Director keep you or your judicial assistant apprised of the status of the waiting list, changes in policies, times of operation, and fees.
• Be familiar with the time limit for SV (cases should not be routinely ordered to SV indefinitely).
• Be familiar with the security offered by the program (e.g., on site security officers, panic-buttons) so only appropriate cases will be referred.
• Decide how routine/emergency reports to the court should be filed.
• Know the program’s policies for termination of cases.

When ordering supervised visitation:

• Provide a date for judicial case review of SV cases.
• Order services which will address the underlying reasons for supervision.
• Be clear and direct with the parties that they must follow the rules of the center or lose the privilege of its services.
• List all persons allowed to attend the visit (grandparents, siblings, etc.).
• If the program charges a fee, specify how the charge should be allocated between the parties.

When ordering monitored exchange:

• Be familiar with resources offered (e.g. video taping, etc.).
• Provide precise times and dates for the exchange.
• Be clear about whether “make up dates” will be allowed in cases of illness.
• Specify precisely who will be allowed to transport the child.
• Decide whether make-up visits or exchanges are allowed and under what circumstances.

Consider this Checklist when creating your standard court order!

S V Internet Links

familyvio.ssw.fsu.edu
(The Clearinghouse on SV)

www.courtinfo.ca.gov/rules/1999/appendix standard-72.htm
(the California Rules)

www.capitol.hawaii.gov/hrs1998html/hrs4/hrs4f/hrs%5F571%2D46.htm
(the Hawaii description of SV)

www.ink.org/public/ksag
(the Kansas Standards for SV)

www.revisor.leg.state.mn.us
(The Minnesota Statutes)

www.moga.state.mo.us/statutes/C400-499/4520400.HTM
(Missouri’s statutory definition for SV)

www.svnetwork.org
(The international S V N’s webpage)

www.famlawsupport.com/access.html
(the Child Access Center in Maryland)

www.workfamily.org/docs/meeting.htm
(Child Development Associates/ MASS)

www.familyservicesinc.org/
(Family Services of Ohio)

marion-court.ojd.state.or.us/parentaccess.htm
(Parental Access & Visitation Program of Marion County, OR)

www.crcsb.org/640vsyr.htm
(Fire Home - S V Center in Indiana)

www.realsolutions.org/gwi.htm
(Real Solutions for Children in CA)

home.donegalpby.com/TPrograms/PALMpages/SuperVisitPrgm.htm
(Family Service of Penn.)

www.victimservices.org/supvis.html
(Victim Services in NYC)
The Clearinghouse asks judges to assist with these issues:

1. **Service of Process at SV site:** Directors of SV programs note that service of process is disruptive to visitation, and indeed, can ruin a visit. The Clearinghouse has suggested that directors make informal agreements with their local law enforcement agencies for non-emergency service of process (e.g. subpoenas, Petitions for Dissolution) to be effected immediately after - not during - a visit. Other suggestions have been to ask the server to wait outside, and then bring the parent to the deputy, so that the child is not alarmed by the parent's reaction to service. Of course, this may not always be possible (if risk of flight or physical harm is present, for example).

2. **Checking Driver’s Licenses/ Warrants:** There is currently no uniformity in the reaction of SV staff to parent's allegations that the other parent has an invalid driver's license or an outstanding warrant for arrest. In the case of monitored exchanges, the Clearinghouse recommends that once a parent has alleged that the other does not have a valid license (that it has been revoked or suspended, for example), the allegation must be verified by staff. If true, the parent will not be able to transport the child (or will have to find an alternate way to transport the child, e.g. public transportation, friend with valid driver’s license). Similarly, some directors report that parents call the SV program, or relay to staff personally on-site, that a warrant exists for the other parent’s arrest. Once the allegation is made, the Clearinghouse supports the director’s duty to verify the allegation. However, there is no statewide agreement as to whether the directors must look into these allegations.

3. **Time Limits:** Because of limited resources, most programs must limit each family’s use of the program. In some programs, a family may only use the program for 90 or 120 days. Still, directors feel pressure from the court to extend these limits, even though there may be a waiting list for others to use the program. There is currently no formal mechanism to prioritize cases.

4. **Parent Advocates:** Some parents show up for visitation with non-lawyer “advocates” who want to question the court order, and generally argue about whether visitation should be allowed. Many directors are unsure how to address these “advocates,” especially when the parties are pro se. The court could help in addressing this in the court order.

5. **Guns on the Premises:** Should residential or non-residential parents who work as private security or public law enforcement be entitled to wear their guns (as part of their uniforms) on site at SV programs to drop off their children if on-site security personnel “vouch” for them?

6. **Parent disagreements over interpretation of court order:** Even if a court order is specific, parents often disagree about what the court intended in visitation or exchange orders. The “making up” of visitation is especially problematic, with parents disagreeing over everything from what constitutes “seven days” or “every other weekend.” Some judges have the parties create a detailed calendar, and require that “make ups” be accumulated and addressed in a formal court hearing.

7. **Off site visits:** Some directors feel that they can not allow off-site visits and maintain the secure nature of the supervised setting. The Clearinghouse discourages off-site visits because of the loss of control over the visitation setting.

8. **Disabled parents/children:** Disabled parents and children referred to SV programs often have special needs, such as interpreters and accommodations for service animals. SV programs will need the court’s assistance in absorbing the costs of these needs.

9. **Therapeutic supervision:** This is one of the most controversial issues in SV. There is currently no protocol or agreement on a particular model of therapeutic supervision; indeed, there is no consensus on the definition of therapeutic supervision or qualifications of those providing therapeutic supervision. Some programs have had cases referred involving highly traumatized children who have not been ordered to individual therapy, and feel that staff do not have the expertise to supervised under these circumstances without further victimizing the children.

10. **Appropriate Referrals:** A court referral to SV is appropriate when staff has the expertise necessary to deal with the issues presented in the case, and when the child will not be retraumatized by the arrangement ordered.
ABOUT COURT REPORTS

The Minimum Standards and Guidelines approved by the Florida Supreme Court for family court cases require that an SV program have “procedures for communicating with the court, including how the program and the court will avoid impermissible ex parte communication.” All SV programs in Florida currently complete “observation reports” after each visit, but directors are often unsure how to facilitate communication with judges. Consider the following:

1. Directors are unsure of what specific information the referring judge wants in the observation notes. For example, does the court want summaries of the conversations that the parent and child had, or descriptions of the family’s interaction, or detailed documentation of every aspect of the visit? (Discussions of these are in Part IV of the Minimum Standards).

2. How should the director provide the observation notes to the Court? By asking the Clerk of the Court to file them in the court file, by requiring one of the parties to file them, or in some other manner? Also, what about other routine paperwork, such as notification that the parties have begun the visit, and termination notices, which are completed when the time limit for the center has expired.

3. Programs have “incident reports” and “emergency reports” which outline problems such as disruptive behavior and program rules violations that occur on site. For example, reports may state that the child cried for 20 minutes during the visit, or the father waited in his car across the street during the mother’s visit, or the mother showed up intoxicated. Directors need clear guidance as to how such reports should reach the court in an expeditious manner.

4. Because program directors are not parties to the matter, they are sometimes faced with difficult scenarios that they believe the court should know about but are unsure how to proceed. For example, a residential parent breaks a program rule, but the nonresidential parent refuses to file the incident report, fearing, for example, that visits would be terminated. (This is especially problematic in pro se cases.) How should the court be notified?

5. If a director believes that the court should address an on-going conflict between the parties concerning visitation, the child’s refusal to participate in visits, an incident at the program, an extension of visitation for the parties, an interpretation of the court order, or any myriad situations that arise, many directors have no protocol for approaching the court.

REAL CASES RELATING TO SUPERVISED VISITATION


Supervised visitation was correctly ordered and supported by competent evidence based on the reports of a family therapist and a child psychologist that it would be in the children’s best interest. Trial court did not abrogate its authority by granting the child psychologist the authority to terminate mother’s counseling and treatment which included supervised visitation with the children.

Ishmael v. Ismail, 989 S.W.2d 923 (Ct. App. Ark. 1999)

Chancellor’s order of supervised visitation will not be reversed unless it is shown that his decision is clearly against the preponderance of the evidence. In this case, evidence showing that husband had threatened to abduct child and return to his native country supported finding that supervised visitation was in child’s best interest.


Evidence of father’s adultery, voluntary absences from the family, poor judgment regarding parenting decisions, lack of involvement in children’s lives, and questionable drinking habits, presented in divorce trial supported award of sole custody of minor children to mother, but did not support order of supervised visitation. Unsupervised visitation was granted.

Roski v. Roski, 730 So.2d 413 (Fla. 3d D.C.A. 1999)

Evidence offered at trial supported award of sole custody to mother, but the requirement for supervised visitation was not supported by the evidence. Father had been residential parent during the pendency of the proceedings and there was no evidence that his custody endangered the children. The guardian ad litem’s strong advocacy for the mother and recommendation for supervised visitation did not deprive father of fundamentally fair trial because he failed to show reversible error, but trial judges are cautioned against abdicating their decision-making responsibility to guardians ad litem.
AVAILABLE RESOURCES

Competency Based Training Manual for Supervised Visitation Providers

The Supervised Visitation Networker, a quarterly newsletter

Bar & Bench Visitation Report, a judicial newsletter

Technical assistance to existing and emerging programs

Web Page including message board & chat room <familyvio.ssw.fsu.edu>

Video introducing parents to the Supervised Visitation process

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