

RAISING THE BAR: WHY SUPERVISED VISITATION PROVIDERS SHOULD BE REQUIRED TO MEET STANDARDS FOR SERVICE PROVISION

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The New York Society for the Prevention of Cruelty to Children (NYSPCC) has provided a supervised visitation program (SVP) for high-risk families for almost two decades. Parents needing supervised visitation often have histories of domestic violence, child abuse and neglect, mental illness or substance abuse, therefore providers delivering services must be adequately trained and supervised in order to protect the child from further harm during the visitation process. This article describes the need for SVP's, parental issues warranting consideration, the special needs of children in these circumstances, policy recommendations for provider standards, and a certification process to be developed and adopted in New York State.

Keywords: *supervised visitation; high conflict populations; standards for practice; policy recommendations; and custody and visitation*

INTRODUCTION

Across the United States, the need for supervised visitation services is at an all time high. Custody and visitation disputes, absentee parents wanting to return to their child's life, and parental separation from the child due to issues of domestic violence, incarceration, child abuse and neglect, and substance abuse are major reasons for this need. Children are deeply affected when they are separated from a parent because the constancy of the parent-child relationship is central to a child's sense of security, feelings of self-esteem and healthy development. Supervised visitation in the presence of an unbiased third party can help the family restore their relationship in a safe and neutral setting.

Of fundamental importance is the threshold of qualifications that visit supervisors should have in order to accept this responsibility. Currently, few states have standards in place for providers that are enforced other than as general suggested guidelines for practice (Supervised Visitation Network [SVN], 2009). The New York Society for the Prevention of Cruelty to Children (The NYSPCC) believes it is essential that all professional visit supervisors are qualified for this role. Training in the areas of domestic violence, child physical and sexual abuse, mental illness, substance abuse and their impact on the child is crucial. Also of importance is training on the issues of maintaining neutrality, the ability to intervene appropriately during the visit, cultural competency and the ability to speak the language of the child/parent being supervised, preparing court reports and providing appropriate levels of security during the visit.

THE NEED FOR SUPERVISED VISITATION PROGRAMS

The American family is changing. Many couples choose to have children without getting married, and for those who do marry, divorce is common. In the United States there are nearly 1.5 million divorces and annulments annually (Center for Disease Control and Prevention [CDC], 2002). The CDC further estimates that approximately 50 percent of adults will eventually be divorced. The number of custody and visitation disputes is consistently climbing. In New York City alone, over

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46,500 custody and visitation cases were initiated in Family Court in 2007 (30th Annual Report of the Chief Administrator of the Courts, 2007). The parents in these cases may be divorced, or may never have been married but had children together.

According to the U.S. Census Bureau, in 2006 there were 12.9 million one-parent families. More than 21 million children resided in these one-parent households and over nine million of those children were under 12 years of age. Approximately 1.8 million of those parents were under the age of 25 and over four million were living below the poverty level (U.S. Census Bureau, 2006). While not all of these families go through custody disputes, very often the children are left struggling between high-conflict parents in chaotic and hostile litigation that frequently leave the children feeling helpless, vulnerable, and alienated from one or both parents (Clement, 1998). Oftentimes these families have histories of domestic violence, substance abuse and/or mental illness and one parent that exacerbates the tension.

In recent years, supervised visitation services have been ordered by family court judges for use in domestic violence cases to allow the alleged perpetrator contact with his or her children. Typically, this occurs in situations when an order of protection has been issued, the abused spouse is in a shelter, or in situations in which there is potential for ongoing harm to a parent. Supervised visitation services in such cases can be an important component in avoiding further incidents of domestic violence (Maxwell & Oehme, 2001).

The other major source of referrals for supervised visitation comes from the child protective system. Approximately 905,000 children nationally were found to be victims of child abuse or neglect in 2006 (Child Maltreatment, 2006). Child protection agencies are increasingly challenged with trying to protect children from one or both parents who may not be involved in parental conflict, but are deemed “high-risk” parents because of confirmed physical and/or sexual abuse or chronic neglect (Pulido, 2006). The issues of domestic violence, substance abuse and mental illness are also commonly cited in case histories of these families. These factors compound the need for a safe and supervised setting for parents to interact with their children.

It has become a priority to find ways to protect children while attempting to promote appropriate parent-child interaction. While there is some debate over whether interaction between parents and children should be granted at all when there is possible risk to that child, the courts have decided that where at all possible, the continuation of the parent-child relationship shall be presumed (Tuchman, 2003). Where parents fail to provide this safety on their own, services such as supervised visitation have become increasingly popular as a means to an appropriately safe and nurturing solution.

TYPES OF SUPERVISED VISITATION

Supervised visitation, by definition, provides an opportunity for contact between a child and an adult, typically the non-custodial parent, in the presence of a third party. The purpose is to provide a protected setting for parent-child contact when such contact presents risk following parental separation, child abuse or neglect, or after an extended interruption in contact (Johnston & Straus, 1999). Other commonly used terms for supervised visitation include: “monitored visitation,” “supervised child access,” and “supervised child contact.”

The origins of supervised visitation have been traced to 1982 when a handful of programs began operation (Straus, 1995). During the following decade, an international association of visitation providers was created that is known today as the Supervised Visitation Network (SVN). Johnston & Straus (1999) note that the 1980’s and 90’s were marked with tremendous growth in the number of supervised visitation centers opened or expanded throughout the U.S., Canada, and internationally. The overarching goal of these centers is to provide supervised visitation that is “safe, neutral, sensitive to the needs of children, and accessible to the local community” (Park, Peterson-Badali, & Jenkins, 1997). Today, there are over 100 supervised visitation programs in the United States (SVN, 2009); in addition to the hundreds of therapists and visit supervisors who provide this service in private practice. The SVN, a national resource for supervised visitation providers and for families needing services, maintains a list of providers that is growing each year due to the increased demand for the service.

Supervised visitation can be provided in several different programmatic ways, including one-on-one supervision using an “observational stance” or a therapeutic/interactive approach and by group supervision, whereby several families visit at one time and there is minimal interaction with the visit supervisor.

One-on-one supervision is the most intensive. A visit supervisor is with the parent and child at all times and can both observe and hear the details of their interaction. This degree of closeness is essential when issues of safety are compelling or there is concern that a parent might manipulate or coerce a child. Visit supervisors may be trained master’s level clinicians, bachelor’s level caseworkers or volunteers. All visit supervisors should be trained in the basic training curriculum outlined by the Supervised Visitation Network for best practice regardless of their status as a paid employee or a volunteer.

If a therapeutic supervised visitation model is being utilized, the monitoring is done by a trained visit supervisor whose function goes beyond maintaining the safety of the setting to treating the parent-child relationship. Licensed mental health professionals oversee the visits and make clinical observations on the progress, or lack thereof, in reports to the court or child protective system. These sessions may be structured by setting goals that the parent can accomplish during their visit with the child. The visit supervisor is an active participant or “coach” in the sessions, aiding the parent in repairing or restoring the relationship with the child, while simultaneously safeguarding the child’s right to move at a pace which is comfortable for him/her.

One-on-one supervised visitation sessions most often occur in an agency setting, or if safety allows, in a community setting. Private practitioners may also provide supervised visitation services in a family home or a local neighborhood area conducive to child activities.

Group supervision often occurs in foster care agency settings where the goal is to provide a safe place for families to reconnect with their child(ren) following their removal from the home due to child abuse or neglect. Agency caseworkers are usually charged with monitoring the visit. There is less interaction between staff and the visiting parents in this type of setting. This type of supervision is recommended for cases that are not considered *high-risk* for harm to the child.

Group supervision may also be utilized to provide children with the opportunity to visit with their parents who are incarcerated. These programs aim to mitigate the trauma that a child experiences following a parent’s arrest, and are usually conducted by child protective service agencies. They offer support and services for children in foster care whose parents are incarcerated, and aim to help maintain family bonds despite incarceration by bridging the gap between the child welfare and criminal justice systems. They focus on improving the quality and frequency of family visits for children in foster care, to ensure that children and parents stay connected despite separation.

STAFFING AND FEES

Supervised visitation programs (SVPs) can have various staffing models. Some programs operate entirely with professional master’s level staff. In others, students training for a MSW graduate degree monitor the supervised visits, while receiving clinical supervision from their field instructors. Most commonly, programs operate with a small core staff, often supplemented by volunteers, who directly provide supervision services (Straus & Alda, 1994). Theonnes & Pearson (1999) reported that approximately 50 percent of SVPs use graduate and undergraduate students to supervise visits on a volunteer basis, and one-third to one-fourth use other community members as volunteers.

Fees for services vary among agencies. Typically, the programs that have staff with advanced degrees charge higher rates. Some programs utilize sliding scale fees based on family income. Park, Peterson-Badali, & Jenkins (1997) found that there is tremendous variability in the average cost for visit sessions and services across centers. A handful of adequately funded programs can provide services free of charge to families that simply do not have the resources to pay. The NYSPCC is an example of such a program (Pulido, 2007). The majority of the families served at the agency are poor and are unable to pay for the service. The NYSPCC has an aggressive fundraising campaign to eliminate this barrier to service for children and families in New York City.

THE PARENTS

The majority of parents who utilize supervised visitation services have never been married. Other parents might not even have a basic relationship history between them (Flory, Dunn, Berg-Weger & Milstead, 2001). Reports for 2005 indicate that 41 percent of parents served by supervised visitation were unmarried, 24 percent were divorced, 17 percent were separated, and 13 percent were still currently married (Office of Child Support Enforcement, 2007). Efforts continue to focus on the unmet needs of unmarried parents, as they make up the majority of families using these services.

Although parents from all socio-economic backgrounds, ethnicities and cultures utilize supervised visitation programs, research indicates that the majority of families are poor, with annual income levels of \$20,000 or less. Pearson, Davis, & Theonnes (2005) found that generally, programs are reaching diverse groups of parents including many low-income, non-White, and unmarried parents who receive no other type of visitation and access assistance. The majority of the parents had the equivalent of a high school education, and 20 percent to 41 percent were unemployed or employed part-time.

The majority of cases referred for services have a history of domestic violence (Straus, 1995; Kaye, Stubbs, & Tolmie, 2003; Pearson & Theonnes, 2005; Straus & Alda, 1994). Approximately 70 percent of the families served at The NYSPCC in 2008 had histories of domestic violence. It is interesting to note that since only a minority of Family or Supreme Court custody and visitation cases get referred to supervised visitation, the programs provide services to what is probably the most emotionally volatile group of litigants in the court system (Maxwell & Oehme, 2004).

In addition to domestic violence, substance abuse, mental illness or alleged or confirmed child abuse and neglect are the primary reasons that parents are referred for services (Pulido, 2006). One issue is often a risk factor for another, and their co-occurrence must be understood so that the most effective interventions can be developed for these parents. In a study conducted by Tuchman (2003), visiting parents described themselves as having few financial resources, having grown up in households noted for alcohol abuse, anger and domestic violence. They reported that they had problems with substance abuse and difficulty raising or keeping their children. Either their partners or child protective services, with the cooperation of the courts, determined that they were a danger to their children.

A recent data analysis on the non-custodial fathers served by The NYSPCC's SVP indicated that over 60 percent had not seen their children in three months prior to the initiation of supervised visits; 21 percent had not seen their children for one year; and 11 percent had not seen their children in two years. Father absence can have profoundly negative consequences on a child's health and development. Numerous studies have found that children who grow up in father-absent homes are significantly more likely to do poorly on almost any measure of child well-being. For example, children who live absent their biological fathers are, on average, at least two to three times more likely to be poor, to use drugs, and to experience educational, health, emotional, and behavioral problems (Horn & Sylvester, 2001).

For many parents, supervised visitation is the only intermediary that prevents a total preclusion of visitation with their children. For some, supervised visitation offers one last chance to make reparations and rebuild a healthy relationship with the child. In those instances where the parent is incapable of maintaining a healthy relationship with the child during visitation, visitation privileges may be suspended. The court, having provided the parent with every opportunity, is able to terminate visitation with a clear conscience (Clement, 1998).

THE CHILDREN

The majority of children who participate in supervised visitation services have experienced multiple traumas in their short lives. These traumas include witnessing domestic violence and/or parental substance abuse, being physically abused and/or neglected and being sexually abused

(Johnston and Straus, 1999). There are special considerations that providers should keep in mind while providing supervised visitation for children who fall into these categories.

SPECIAL CONCERNS FOR CHILDREN IN FOSTER CARE

Child removal and the subsequent placement into foster care is often very traumatic for both children and their parents. These children have been subject to child physical abuse, sexual abuse or neglect and consequently may develop feelings of anger, fear, depression, distrust, despair, shame and powerlessness. Children may not have the ability to adequately express their feelings verbally; therefore, the manifestations of these emotions are often behavioral. They may withdraw from their family and friends, become nonverbal, and exhibit regressed behaviors such as whining and temper tantrums. Children can also have physical reactions such as headaches, sleeping and eating difficulties, and frequent illnesses.

Numerous studies have shown that frequent and ongoing contact with family members reduces the trauma of removal for children, improves adjustment to placement, and helps expedite permanency, regardless of whether the goal is reunification or adoption (Perkins & Sylvia, 1998). According to the New York City Administration for Children's Services (ACS) Best Practice Guidelines for Family Visiting (2007), timely parent contact can serve to provide continuity and reassurance for children, send a vital message of responsibility to the parent while supporting him/her to immediately begin addressing the reasons for their child's removal, and allow for an assessment of the likelihood of reunification.

SPECIAL CONCERNS FOR CHILDREN EXPOSED TO DOMESTIC VIOLENCE

Children are exposed to domestic violence in many ways. They may see or hear the domestic violence. They may also be unintentionally injured during an altercation between the parents. Children are also sometimes used by the abusive partner against the other parent. Most children who are exposed are affected by the experience in some way. Each child's experience may be different. The child's developmental stage, age and gender, the time elapsed since witnessing violence, the co-occurrence of child abuse/neglect and domestic violence, the frequency, proximity to and severity of the violence and the quality of the parent-child relationship, all serve as variables or moderating factors in how the child internalizes the situation and reacts to it.

The symptoms exhibited by children who have witnessed domestic violence are comparable to those of child abuse and neglect. Sleep difficulties, physical symptoms, increased aggression/anxiety or increased withdrawal, anxiety about separation from a caretaker, intrusive thoughts, depression, substance abuse and/or running away are commonly cited (Pulido & Gupta, 2002).

Visitation services must be carefully monitored so that the impact of reunification with the offending parent can be assessed. Children may be conflicted, anxious or fearful about seeing the parent. Another major concern is that visitation should not be used by the abusive partner to further the pattern of coercive control over the survivor through contact with the child. When devising a safety plan, providers have some discretion about how to organize, schedule and plan for visitation. They should consider the level of danger to the child and the level of supervision needed to provide safe, secure and consistent monitoring of visits.

SPECIAL CONCERNS FOR CHILDREN EXPOSED TO HIGH-CONFLICT CUSTODY AND VISITATION DISPUTES

In court proceedings regarding child custody and visitation disputes, judges are often faced with the difficult challenge of balancing a non-custodial parent's (typically a father's) right to see his child, against risks posed to a child due to allegations of abuse or a parent's history of mental illness, drug abuse or domestic violence.

Many children are referred for supervised contact in the middle of their parents' tumultuous separation and ongoing custody battle. They may live in a family environment typified by mutual distrust, fear, anger, bitterness, and projection of blame. If a parent leaves the home, new parental partners, extended family members, and other caretakers may have moved in and out of these children's lives, fueling their feelings of loss and fear of abandonment. The sad consequence is that these living situations usually provide a frightening, fragmented and confusing experience for children. It is common for the children who are going through the separation and/or divorce process to experience sleep difficulties, physical symptoms such as headaches and stomachaches, and increased anxiety about separation from the primary caregiver (Pulido & Lacina, 2007).

It should be noted that some children involved in divorce and custody litigation undergo mild brainwashing by their parents (Price & Plaske, 1994; Lund, 1995). This is a product of the nature of divorce and/or the disintegration of the parents' relationship. Inevitably, children receive subtle messages that both parents have serious criticisms of each other. Some parents go a bit further and try to "alienate" the child from the other parent using more aggressive behavior. The custodial parent gives verbal and nonverbal cues to the child that encourages the child to act out angrily against the non-custodial parent or to be afraid of that parent. The children in these cases are often filled with conflict. They show many symptoms of anxiety, splitting, insecurity and distortion. They may view the visiting parent as the "bad" parent and the custodial parent as the "good" parent. They may be disrespectful to the visiting parent. However, they usually are still able to integrate and discuss some good traits about the alienated parent and some negative traits about the alienating parent. Gardner (1999) recommended a combination of court orders for visitation plus therapy to help children through this type of situation.

THE NEED TO HAVE PRACTICE STANDARDS FOR PROVIDERS

Due to the complexities of the aforementioned issues, supervised visitation providers must be adequately trained and supervised to handle the complex and often competing needs of the child, the visiting and the custodial parent.

In 2005, a federal grant allowed The NYSPCC to participate in the development of standards of practice for those providing supervised visitation for families with histories of domestic violence. Following three years of collaboration between the New York State Coalition Against Domestic Violence (NYSCADV), the New York State Office of Children and Family Services (OCFS), Oswego County Opportunities (OCO), and The NYSPCC, the finalized protocol was shared at a statewide forum of providers and other interested parties. The response was overwhelmingly positive and entities such as the National Supervised Visitation Network and the New York City-based Center for Court Innovation requested copies once the protocol was finally released. Several key points drove the protocol paradigm:

- Supervised visitation cases that involve domestic violence are most appropriate for center-based services.
- The organizing principle is safety for children and the parents, whether custodial or visiting.
- The presumption that domestic violence may be occurring in *all* referred cases, and therefore, safety measures should be used with all families, even those not initially identified as involving domestic violence.
- Recommendations are tiered in recognition of differing contexts and resources of the providing agency.

The protocol included a common set of operating assumptions that SVP's should utilize, written through a lens of protecting all parties from the impact of domestic violence, even if that is not the primary reason supervised visitation was ordered. The protocol covered: training and qualifications of paid staff, volunteers and security personnel; procedures for arrival/departure; supplemental services

for parents; design and layout of office/waiting room space; and procedures regarding emergencies. The protocol also addressed court issues such as the referral process and required information, and expectations for reporting to the court, including the need to train staff on *objective* reporting of parent-child interactions. Additional standards of practice outlined in the protocol include: the intake process for adults and children, parental access to records, codes of conduct for visits, and debriefing/follow-up procedures after the visit and after the case is closed.

In the final report submitted in January of 2009, the partnership recommended a series of next steps in order to strengthen the deficiencies in current SVP practice. These included joining forces with additional public/private groups to build upon the existing collaborations in order to coordinate the various services statewide, with the aim to standardize service provision. The group also recommended that funding streams for SVP's needed to become established on city, state and federal levels, as the demand for services far exceeds the current capacity of either agencies' resources or parents' ability to pay.

There is always court involvement when supervised visitation arrangements need to be made, either by direct order of the court in custody/visitation proceedings, or where a court has placed a child in foster care and the visitation needs to be arranged by a foster care or other agency. The courts have the legal responsibility to determine what type of visitation arrangements will be in the child's best interests, including whether supervised visitation is needed and appropriate (e.g., New York Domestic Relations Law, 1999). The courts, therefore, are essentially the gatekeepers to supervised visitation.

In recognition of this reality, many states have charged the courts with the responsibility of assessing the qualifications of individuals or entities that are being considered to supervise visits in particular cases that come before the court. Some states have provided minimal guidelines for courts in determining the suitability of visit supervisors, while others have directed the creation of detailed rules spelling out the qualifications and standards to be met when a court orders a particular individual or entity to supervise visits. For example, Louisiana requires only that the person approved by the court to supervise shall not be a relative, friend, therapist, or associate of a visiting parent who has perpetrated family violence (Louisiana Revised Statutes, 2005). Hawaii goes a bit further by requiring a positive qualification that supervised visitation shall be ordered in a secure setting conducted by a person trained in security and the avoidance of family violence (Hawaii Revised Statutes, 2004).

In Oklahoma, the statutory scheme authorizes, but does not require, the associate district judge in each county to appoint a "judicial district supervised visitation team" (Oklahoma Statutes, 2004). The team may include mental health professionals, police, medical personnel, child protective services, child advocates, or the district attorney. The team is charged with identifying the supervised visitation sites and individual providers, establishing training for volunteer supervisors, and developing a protocol for supervised visitation to ensure safety of the children and parties involved in the visits (Oklahoma Statutes, 2004).

The Commonwealth of Massachusetts goes further in detailing how decisions are made about safeguards that should be in place when determining whether a case needs to be referred for supervised visitation services and the qualifications for visit supervisors. In 2005, The Trial Court and Probate and Family Court Department of the Trial Court drafted and adopted two guides, "Supervised Visitation Risk Assessment for Judges" and "Guidelines for Court Practices for Supervised Visitation," that are in the process of being implemented. The first serves as a judicial guide to aid courts in determining whether supervised visitation is warranted. An outline suggests questions the court might ask to assist in its evaluation of the potential need for supervised visitation. The second document provides an overview of the general provisions for supervised visitation cases, procedures to follow when issuing court orders, and important considerations when designating a visit supervisor. It provides an overview of providers' qualifications, duties and obligations when accepting this important assignment. In addition, the guidelines direct the Administrative Office of the Probate and Family Court to establish procedures for establishing a list of qualified providers. California has perhaps one of the most detailed and comprehensive qualification systems for providers of supervised visitation. Statutory provisions direct the California Judicial Committee to develop standards for supervised visitation providers in accordance with general guidelines set forth in the statute

(California Family Code, 2005). These standards have been promulgated by the Judicial Committee in a detailed rule that addresses such matters as the qualifications for nonprofessional (unpaid), professional, and therapeutic (licensed mental health professional) providers' training, safety and security, and confidentiality (California Rules of Court, 2007). However, the rule makes clear that the court always determines who provides supervision and how it is provided based on factors such as local resources, the financial situation of the parties, and the degree of risk (California Rules of Court, 2007). Therefore, the court may, at its discretion, depart from the standards if it determines that the facts and circumstances of a particular case warrant it.

While the Oklahoma, Massachusetts, and California schemes clearly go beyond the de minimus guidelines for the qualifications of supervised visitation providers found in other states, the time is ripe for moving toward a more formal certification for providers of supervised visitation. The risks are too great for children who, as discussed above, are often caught up in situations fraught with conflict and the potential for injury, abduction, or emotional trauma.

The NYSPCC proposes that legislation be enacted directing the New York State Office of Court Administration (OCA) to develop operating standards for SVP's that receive referral orders from the Family Court. Other than non-binding standards developed by private membership coalitions such as the SVN, no standards are currently in place that would apply to all supervised visitation arrangements ordered by the Family Court in New York State. The legislation should also establish a certification requirement that must be met for any professional provider of supervised visitation, and direct that some minimal standards of training and/or qualification be required of non-professional providers such as relatives or associates of the family ordered to supervised visitation.

After the operating standards are finalized, providers of SVP services could apply for certification to verify that they have met, at a minimum, eligibility requirements and passed an assessment. Certification would protect the public, advance the profession and identify individuals qualified to provide supervised visitation services. Although certification would be voluntary, it would behoove providers to meet the standards and be certified in order to receive referrals from Family Court. Certification would also provide protection for the consumer, enhance the credibility of the profession, and give Family Court an objective measure to evaluate service provision. The governance of the certification process could potentially fall under the auspices of a statewide entity, such as OCA or the New York State Chapter of the SVN, who could receive support from the parent organization, the national SVN. SVN is a logical fit, as it is a professional association primarily interested in advancing a profession and meeting members' needs. Another option would be to have an independent organization oversee the certification process for the state.

Because child safety is usually the primary underlying concern when the Court orders supervised visitation, the lack of minimal standards universally applicable to those providing the supervision is of concern. Providers need to be trained in handling issues of domestic violence, intense loyalty conflicts, and the impact of child abuse, parental substance abuse and mental illness, to ensure that children receive proper support during these interactions. Legislation establishing a certification requirement would help ensure that all children who are the subject of supervised visitation orders can safely and appropriately maintain a meaningful relationship with their non-custodial parents.

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