

# Domestic Violence Review



Office of the State Courts Administrator  
Office of Court Improvement

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### Helpful Web Resources

- [Family Courts](#)
- [DV 2014 Benchbook](#)
- [2014 DV Action Plan](#)
- [Petitioner Brochures](#)
- [Respondent Brochures](#)
- [DV Case Management Guidelines](#)
- [Best Practices: Child Support in DV cases](#)
- [Dating Violence Checklist](#)
- [Repeat Violence Checklist](#)
- [Sexual Violence Checklist](#)
- [DV Checklist](#)
- [Stalking Checklist](#)
- [Firearms Quick Reference Guide](#)
- [Elder Abuse Benchcard](#)

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### *Virtual Court Available for Continuing Education Credits*

The Virtual Court program offers Florida's domestic violence stakeholders an opportunity to learn about domestic violence proceedings and see the case through the judge's eyes. The program allows the user to act as judge in a domestic violence simulation. The case is fictitious, but the questions are real questions that judges must grapple with every day. Learn the laws that guide judges' actions during domestic violence proceedings with our engaging, interactive online program. The program can be accessed at: <http://virtualcourt.flcourts.org>.

The Virtual Court program is approved for up to 1.50 non-conference Domestic Violence CJE credit hours. Judges may apply for Continuing Judicial Education (CJE) credit by emailing a request to [CJEMail@flcourts.org](mailto:CJEMail@flcourts.org) or writing to: Court Education Division, Office of the State Courts Administrator, 500 South Duval Street, Tallahassee, Florida 32399-1900 (Attention: CJE Credit). Judges who have completed the program but have not yet requested a certificate of completion may do so by sending an email request to [vcsupport@flcourts.org](mailto:vcsupport@flcourts.org).

The Florida Bar has approved 2.00 hours of general Continuing Legal Education (CLE) credit (including 1.50 hours of Marital and Family Law Certification credit) for the completion of this training module. Individuals are required to post their CLE activity on the Florida Bar website, [www.floridabar.org](http://www.floridabar.org), to receive credit. Please refer to course #19141.

Completion of the Domestic Violence Virtual Court training module can count as 2.0 hours of Domestic Violence Continuing Mediator Education (CME) credit. Individuals are required to keep the information pertaining to the completed virtual court course during the two-year cycle. Individuals will then report the information on the CME Reporting Form included in the renewal packet at the time of renewal, not when the credit is earned. The CME Reporting Form is also available on the Dispute Resolution Center's [website](#).

### *News from the Office of Court Improvement*

#### **FIIV Regional Trainings**

The Florida Institute on Interpersonal Violence, in conjunction with the Office of Court Improvement and Judges Carroll Kelly and Peter Ramsberger, is in the process of hosting a series of three (3) regional domestic violence training events throughout Florida. These trainings are aimed at providing family court judges throughout Florida with a comprehensive understanding of the basic legal and jurisprudential theories in domestic violence. Judges interested in attending the next training on February 1-2, 2016, in Gainesville, Florida, may register by contacting the Office of Court Improvement c/o: Leslie Russell, at [russell@flcourts.org](mailto:russell@flcourts.org).

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### Sexual Violence Surveys

In accordance with our 2015-16 STOP Grant deliverables, the OCI is in the process of disseminating a set of surveys throughout Florida. These surveys are designed to elicit information from every type of SV court stakeholder, and will be used to map the future of the OCI STOP Grant SV initiative. Please be on the lookout for a link to the surveys, or email OCI at [wentzella@flcourts.org](mailto:wentzella@flcourts.org), with the subject line "Survey Request." Thank you for your participation in this very important process.

### *Upcoming Projects and Events*

- **THE OCI WEBINAR SERIES** The Office of Court Improvement is proud to be championing the latest in education services. During the 2015-16 fiscal year, the OCI is offering four (4) webinars devoted to current domestic violence and sexual violence issues; these webinars will be available to any interested stakeholders in Florida. Check the OCI Domestic Violence website for updates on upcoming webinars, <http://www.flcourts.org/resources-and-services/court-improvement/family-courts/domestic-violence/>.
- **THE DOMESTIC VIOLENCE AND SEXUAL VIOLENCE COORDINATORS' MEETING** On November 9-10, 2015, the Office of Court Improvement held our annual DV and SV Coordinators' meeting in Tampa, Florida. The meeting focused on strangulation in the domestic violence and sexual violence arenas. Gael Strack agreed to provide an excellent presentation on this important topic. Please contact Kathleen Tailer at [tailerk@flcourts.org](mailto:tailerk@flcourts.org) for more information about the meeting or the issues discussed.



### *Domestic Violence and Supervised Visitation: Judicial Protection of Victims and Children*

Thallia Malespin M.S.W., and Karen Oehme J.D.

Judges grappling with issues of how to keep victims of domestic violence and their children safe have an important resource in the child protection system: Florida's supervised visitation programs (sometimes called Parenting Time Programs). Data collected by the Clearinghouse on Supervised Visitation at Florida State University, funded by the Department of Children and Families to keep a

Most cases referred to supervised visitation programs are referred because of domestic violence, substance abuse, and mental health issues.

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directory of programs and provide technical assistance to them under chapter 753, Florida Statutes, reveal that the cases at supervised visitation are often highly complex. These programs are an integral part of the child welfare system in Florida, and there are specific steps that judges can take to enhance the safety of the families using them.

### **Troubled Families**

An analysis of the 2,604 cases entered by programs in to the Clearinghouse's Supervised Visitation Database in the 2013-2014 fiscal year reveals that most cases referred to supervised visitation programs are referred because of domestic violence, substance abuse, and mental health issues. These issues often overlap. Recognizing that many families deal with multiple issues, the Clearinghouse tracks the primary reason for referral to visitation, along with additional reasons for referral to programs. Referral statistics for domestic violence have remained relatively consistent at about 36% of all cases sent to supervised visitation programs since 2011. However, 41.1% of the remaining cases (that were referred to supervised visitation programs for any other primary reason) also listed domestic violence as an *additional* allegation. Similarly, while about 29% of the total cases tracked in 2014 were referred primarily for parental substance abuse, almost 24% of cases referred for other reasons indicated that parental substance abuse was an additional issue in the case. Clearinghouse data reveals that there have been notable increases in both referrals for substance abuse and mental health issues since 2011, necessitating that programs receive additional training on "dual diagnosis" cases involving both substance abuse and mental health.

There are programs in nearly every county in Florida, making up 80+ programs in the state. Nearly one quarter of the supervised visitation clients have an arrest record for at least one violent crime (including domestic violence). The Clearinghouse collects case information that sheds light on the dynamics of domestic violence cases and provides guidance for judges who refer such cases to programs.

### **Domestic Violence Dynamics**

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The term "separation violence" captures two facets of a specific phenomenon. First, domestic violence is often an attempt by one partner to control the other partner's actions. Second, the most dangerous point in a violent relationship is often when the victim attempts to leave. (NCADV, 2015). When the partner leaves the relationship, the perpetrator loses control – and wants to get it back. Stalking, surveillance, and repeated attempts to convince the victim to return to the relationship are common. When a judge orders any restrictions on the perpetrator, including supervised visitation to protect the victim, a perpetrator loses further power over the victim. The perpetrator may then try to use the visitation setting to reassert control. That dynamic can manifest in a variety of ways.

First, the perpetrator may attempt to discredit the victim and convince the visitation staff that it is the perpetrator, not the victim, who is the stable force in the children's lives. Indeed, this can be a thorny problem for staff, who may see a victim who has experienced -- and may be exhibiting the effects of -- severe stress. Thus, it may be the victim who seems nervous, exhausted, and distrustful, while the perpetrator --focused on regaining control – who calmly and reasonably explains all the parenting defects in the victim. Second, the perpetrator will know exactly where his or her former partner is, at a specific time, and for how long when supervised visits are ordered. Staff constantly monitor these cases to prevent stalking opportunities at the variety of services programs offer. Third, some victims may indeed suffer from mental health and substance abuse problems. Researchers have long noted the negative impact of domestic violence on both physical and mental health, and substance abuse can be a part of the domestic violence, or a way for the victim to escape the cruel realities of the violence, or both (Ellsberg et al., 2008; Whiting et al., 2009).

Finally, supervised visitation programs have reported a variety of behaviors that reveal how perpetrators respond to the loss of control over the victim and children. These include the following:

- Using the child(ren) as a manipulation tool. Perpetrators use the children to harass (or intimidate) the victim, to try and convince the victim to return to the abuser, and to use the children as method to stay in the victim's life (Beeble, Bybee, & Sullivan, 2007).

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- Denying or minimize the abusive behavior that lead to supervised visitation. Telling staff “It’s all a misunderstanding,” or “It was all an accident.” Some perpetrators may even place blame on the victim (Jaffe, Johnston, Crooks, & Bala, 2008).
- Using scheduling problems as a tactic to manipulate and/or control a victim. The perpetrator’s scheduling may force the victim to be accommodating at a time that is not convenient or possible (Parker, Rogers, Collins, & Edleson, 2008).
- Using the children to relay messages or deliver items to the victim at visits. Perpetrators have given children notes to deliver to the victim or say “Let mommy know that I’m sorry and ask her if I can come home” (Maxwell & Oehme, 2001).
- Using the staff or children to get information about the victim’s whereabouts by asking about the location of the new home, new school, or new job (Parker, Rogers, Collins, & Edleson, 2008).
- Using financial manipulation such as refusing to pay for visits or insisting that the victim cover costs (Maxwell & Oehme, 2001).
- Using threats or physical violence including slashing of tires, aggressively pushing/harming staff to get to victim, and physically confronting the victim in parking lot after visit (Hans, Hardesty, Haselschwerdt, & Frey, 2014). One perpetrator even left a suicide note for the victim on her windshield.

The Clearinghouse provides training to all supervised visitation providers in Florida on these and many other issues to keep staff informed of the risks involved in visits and keep children safe. However, these trainings are not mandatory and programs differ in how much training their staff receive.

### **Judicial Considerations for Domestic Violence Referrals**

Under Florida Statute 741, when it appears to the court that a petitioner is either the victim of domestic violence (or has reasonable cause to believe the petitioner is in imminent danger of becoming a victim), the court has the authority to act in a variety of ways, including granting an injunction for protection, ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent, providing the petitioner

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with 100 percent of the time-sharing in a temporary parenting plan, and establishing temporary support for a minor child or children or the petitioner. In addition, 741.30(3)(k) is specific that a victim may request in the petition "... a temporary parenting plan, including a temporary time-sharing schedule, with regard to the minor child or children of the parties which might involve prohibiting or limiting time-sharing or requiring *that it be supervised by a third party...*(e)stablishing temporary support for the minor child or children or the petitioner... (d)irecting the respondent to participate in a batterers' intervention program or other treatment pursuant to s. 39.901, Florida Statutes." There is no mandate to order supervised visitation. Instead, Florida Statute 741.2902 states that it is the legislature's intent that courts *shall consider* supervised visitation, withholding visitation, or other arrangements for visitation that will best protect the child and petitioner from harm, as well as consider requiring the perpetrator to complete a batterers' intervention program.

When judges make domestic violence referrals to supervised visitation, they can take additional steps to improve outcomes:

- Participate in training on domestic violence beyond the DV-101 classes. Much new research has revealed the devastating effects of domestic violence, including children's brain development and long-term negative outcomes. The judicial system and community will benefit from judges understanding the impact of their decisions in these difficult cases.
- Become familiar with the visitation (also called parenting time) resources in the community. Supervised visitation programs may differ from program to program because no statewide entity enforces uniform standards and protocols. Programs have discretion to determine whether they can accept a case, or whether the program does not have the training, security measures, or expertise to adequately provide services. There will also be cases in which the court itself determines that supervised visitation is not appropriate, or has to be suspended, particularly when the safety of the victim is compromised. When judges understand the local program's capacity and protocols, referrals are more appropriate and helpful to the family.

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- Be familiar with the risks present in each case before making a referral. This helps ensure that referrals are appropriate. Using professionals with experience and training in domestic violence is a good way to start (Jaffe, Johnston, Crooks, & Bala, 2008).
- Consider BIPs as a tool for intervention if and when domestic violence is confirmed (Hardesty et al., 2015).
- Collaborate with visitation programs on the how domestic violence cases will be reported and conveyed back to the courts. This collaboration will allow for judges to hold perpetrators accountable for participating in negative behaviors during the supervised visitation process. Accountability includes informing perpetrators of unacceptable behaviors, ordering BIP attendance if perpetrator has not done so, suspending or terminating rights to visitation, and/or ordering other interventions for the perpetrator.
- Set expectations on training for programs. Although the Clearinghouse's resources are free, there are other quality local trainings and online trainings that programs can access. Ensure that the program prioritizes ongoing training. The Clearinghouse has increased its training on substance abuse and mental illness in its monthly technical assistance to programs. Also essential is continued training on safety issues, intervention techniques, de-escalation communication, and the impact of trauma on all clients.

### **Security Decreases as Funding Problems Increase**

The most persistent problem involving supervised visitation programs is lack of sufficient funding. Twenty years ago, many local law enforcement agencies were willing to provide onsite security at least one day of the week for programs so that they could schedule their most complex cases on those days. That source of support has dried up in most counties. Still, the best practice is to have security at programs – at the very least for domestic violence cases. Many programs cannot afford that cost; thus, many programs operate without onsite security at least some portion of the time. Some programs have no security personnel at all. Those operate with a variety of security equipment, including door buzzers, panic button, and metal detectors. Courts and counties that prioritize innovative projects should direct funding to supervised visitation programs to enhance security.

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### **Lack of Standards**

Judicial awareness of local programs and protocols is more important than ever because the legislature has not yet acted to ensure quality statewide. In 2007, the Florida Legislature directed a statewide committee to make recommendations as to what standards should govern the practice of supervised visitation programs statewide. The recommendations were presented to the Legislature in 2008, but have never been formalized or implemented. This lack of standards has a direct impact on services throughout the state. Programs have operated without sufficient protocols and oversight, private businesses have opened to offer services without attention to staff training and site security. The 2008 Report to the Florida Legislature is available at [http://familyvio.csw.fsu.edu/wp-content/uploads/2012/02/Final\\_Report\\_to\\_Legislature.pdf](http://familyvio.csw.fsu.edu/wp-content/uploads/2012/02/Final_Report_to_Legislature.pdf). Call the Clearinghouse for a copy.

### **Opportunities for Improvement**

Programs continue to provide a valuable service to the community statewide. However, there is much more work to be done to provide the support that these crucial programs need to continue to provide services in their communities. The safety of vulnerable children and their parents must be a top priority. The two biggest concerns are funding and standards. Both directly relate to the issue of safety.

### **Safety Needs Abound**

Programs not using the established safety protocols are risking serious injury to their clients and staff. The Clearinghouse has alerted DCF, the Courts (through OSCA), and Attorney General Bondi that safety is of the utmost concern at supervised visitation programs, and that more funding, especially for onsite security personnel, is crucial to keeping families safe at supervised visitation programs. The fact that family violence is a frequent referral reason and an allegation of the case reminds us of the constant safety threats at programs.

### **The Importance of Data**

Data is important: Currently all supervised visitation programs funded by DCF participate in the free FSU database. However, for all other programs, participation is optional. The Chief

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Judge in each circuit can request programs to participate in the free database so that accurate statewide data is collected.

*The Clearinghouse also provides services for programs that accept dependency cases, trains all programs on protective factors and parent modeling and coaching, and works with programs to increase parents' capacity and motivation to raise healthy children.*

<b>Resources</b>
<b><u>Referrals to Supervised Visitation: A Manual for Florida's Judges</u></b> <a href="http://training.familyvio.csw.fsu.edu/manuals/judges/oldsite/index.htm">http://training.familyvio.csw.fsu.edu/manuals/judges/oldsite/index.htm</a>
<b><u>List of Florida Supervised Visitation Programs</u></b> <a href="http://familyvio.csw.fsu.edu/clearinghouse/fl-programs/">http://familyvio.csw.fsu.edu/clearinghouse/fl-programs/</a>
<b><u>Clearinghouse on Supervised Visitation</u></b> <a href="http://familyvio.csw.fsu.edu/clearinghouse/">http://familyvio.csw.fsu.edu/clearinghouse/</a> 850-644-6303 <a href="mailto:koehme@fsu.edu">koehme@fsu.edu</a> <a href="mailto:tsm14b@my.fsu.edu">tsm14b@my.fsu.edu</a> 850-644-1715
<b><u>Florida Coalition Against Domestic Violence</u></b> <a href="http://fcadv.org/">http://fcadv.org/</a> ; 1-800-500-1119
<b><u>Florida Council Against Sexual Violence</u></b> <a href="http://fcasv.org/">http://fcasv.org/</a> ; 1-888-956-7273
<b><u>National Coalition Against Domestic Violence Hotline</u></b> <a href="http://www.ncadv.org/">http://www.ncadv.org/</a> ; 1-800-799-7233
<b><u>Local Resources</u></b> <a href="http://www.211.org/">http://www.211.org/</a> ; 2-1-1

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University's College of Social Work. She also serves on the Leon County Domestic Violence Fatality Review Team and the Attorney General's Statewide Florida Domestic Violence Fatality Review Team.

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### *Caselaw Corner*



Robertson v. Robertson, \_\_\_ So. 3d \_\_\_\_, 2015 WL 2089078 (Fla. 4th DCA 2015). **STALKING INJUNCTION AFFIRMED**. A former wife received an injunction for protection against stalking against her former husband and the former husband appealed. The court affirmed the injunction and found that there was sufficient evidence to show that the former husband's conduct constituted stalking. On three occasions, he had gone to the former wife's house at night, walked around her property, and shined a flashlight into the windows. May 6, 2015.

<http://www.4dca.org/opinions/May%202015/05-06-15/4D13-4716.op.pdf>

Plummer v. Forget, \_\_\_ So. 3d \_\_\_\_, 2015 WL 2129218 (Fla. 5th DCA 2015). **STALKING INJUNCTION REVERSED**. The respondent appealed an order of protection against stalking entered on behalf of his former girlfriend. The appellate court reversed and found that the incidents described by the petitioner would not have caused a reasonable person to suffer substantial emotional distress. May 8, 2015.

<http://www.5dca.org/Opinions/Opin2015/050415/5D14-3669.op.pdf>



*"This project was supported by Contract No. LN967 awarded by the state administering office for the STOP Formula Grant Program. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the state or the U.S. Department of Justice, Office on Violence Against Women."*

People wishing to contribute to future editions of the "Domestic Violence Review" should contact Andrew Wentzell at [Wentzella@flcourts.org](mailto:Wentzella@flcourts.org).