

SYNERGY

The Newsletter of the Resource Center on Domestic Violence: Child Protection and Custody

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

THE NEWS

The DRVN: 15
Years of Targeted
Technical Assistance

2

Building Bridges to
Improve Outcomes
in D.V. Cases

6

Supervised Visitation:
Findings from the
Kent, Washington
Demonstration Site

9

Court Corner

12

Safe Havens:
Guiding Principles

13

Supervised Visitation:
Information for
Mothers Who have
Experienced Abuse

15

Town Hall Meeting:
Balancing Access
and Safety

15

Sometimes an issue is of such general interest and importance that, without our intending it, *Synergy* becomes all about that issue.

Twice a year, Family Violence Department staff sit down to plan our next issue of *Synergy*. Generally, we don't select a theme and plan articles around it. Instead, we brainstorm about the "hot" issues of the day relating to children and domestic violence: the latest legislation and court decisions, cutting edge programs, trends as reflected by research, and so forth. Sometimes, though, an issue is of such general interest and importance that, without our intending it, *Synergy* becomes all about that issue. This is one of those times, and access to children is the issue.

This edition of *Synergy* reflects the voices of mothers who have suffered domestic violence and are concerned about custody and visitation issues, and the voices of those trying with all their might to help these individual women and to improve systemic responses to all victims. Hence, an article about building bridges between the domestic violence community and the family court and all of its support services; a

description of the Domestic Violence Resource Network and its collaborative efforts to support women victimized both by domestic violence perpetrators and the systems that intervene in such cases; and three—count 'em—three articles having to do with supervised visitation.

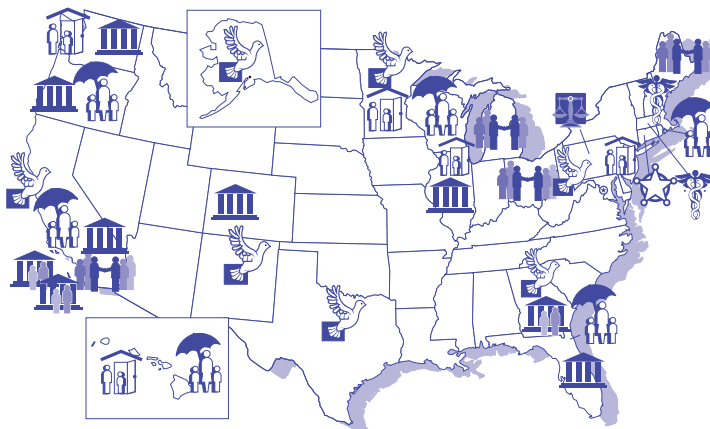
Domestic violence service providers have long

known that most women stay in abusive situations for the sake of the children and finally leave for the sake of the children. We in the Family Violence Department and you who work in whatever capacity on behalf of victims of domestic violence plainly can spend our

time in no more vital a way than striving to ensure that battered women and their children can stay together, with autonomy, in safety and stability. Thank you for the work you do.

Billie Lee Dunford-Jackson
and Maureen Sheeran,
Co-directors

This edition of *Synergy* reflects the voices of battered mothers who are concerned about custody and visitation issues, and the voices of those trying to help these individual women and to improve systemic responses to all victims.



Volume 12 • No. 1
Winter 2008

This map shows the location of programs depicted as icons in the inset at left which have been highlighted in recent reports or earlier issues of *Synergy*, and which serve battered women and their children. The latest addition is the Kent, Washington Safe Havens Supervised Visitation Demonstration Site.

The Domestic Violence Resource Network

15 Years of Targeted Technical Assistance

Since its inception decades ago, the domestic violence movement has seen remarkable change. What began as a local, grassroots political movement has evolved into a national human rights and public health and safety effort. As professionals interacting with domestic violence victims became more educated on the subject, the need for promising practices and high-quality information about domestic violence increased. Victims sought practical information about services, legal options, and navigating systems they were drawn into as a result of abuse. It became critical that national domestic violence technical assistance providers develop and implement a shared vision across special issue areas to enhance safety and improve outcomes for battered women, children, and families.

In 1993, the U.S. Department of Health and Human Services (HHS) responded to this need by funding a network of four resource centers to provide information, training, and technical assistance to federal, state, local, and tribal agencies; domestic violence programs; local community- and faith-based organizations; and other entities and individuals who provide services to domestic violence victims, and to victims themselves. These resource centers include the National Resource Center on Domestic Violence (NRC), a project of the Pennsylvania Coalition Against Domestic Violence, and special issue resource centers (SIRC's): the Resource Center on Domestic Violence: Child Protection and Custody, a project of the Family Violence Department of the National Council of Juvenile and Family Court Judges; the National Health Resource Center on Domestic Violence, a

project of the Family Violence Prevention Fund; and the Battered Women's Justice Project, a collaborative effort of the Duluth Domestic Abuse Intervention Project, the Pennsylvania Coalition Against Domestic Violence, and the National Clearinghouse for the Defense of Battered Women. A fifth SIRC, Sacred Circle: National Resource Center to End Violence Against Native Women, was created in 1998 to address violence against Native women. In 2000, three multi-cultural institutes that were already established with little or no federal backing, were funded to address culturally-specific issues: the Asian and Pacific Islander Institute on Domestic Violence; the Institute on Domestic Violence in the African American Community; and the National Latino Alliance for the Elimination of Domestic Violence (Institutes). Most recently, the National Center on Domestic Violence, Trauma and Mental Health emerged in 2005. This network, known as the National Domestic Violence Resource Network (DVRN), will celebrate its 15th year of service in 2008.

The NRC/SIRC's

In addition to providing training, engaging in public policy development, and producing publications, each of the five NRC/SIRC's operates a toll-free line to provide non-crisis technical assistance targeting domestic violence advocates, attorneys, judges, child protective services workers, health and mental health providers, and community-based service providers. Additionally, in view of a high volume of requests from victims seeking education on domestic violence, acting as their own advocates and attorneys, and engaging in system change efforts, the NRC/SIRC's organize their efforts and locate or create materials specifically for the types of questions and concerns victims have. "Often times, the best assistance we offer is simply

helping victims frame their issues,” said Stephanie Avalon, an attorney for BWJP.

NRC/SIRC’s satisfy a particular niche in the information circuit, and several are the only national provider of its type. The National Clearinghouse for the Defense of Battered Women (NCDBW), collaborative partner to BWJP, for example, provides case-specific information for women who have been charged with crimes directly related to being victims of domestic violence. “There must be some legal relevance of the abuse to the crime that was committed, which is then many times relevant to the defense theory,” stated Sue Osthoff, director of the NCDBW. NCDBW examines cases involving partner homicide, a child killing an abusive parent, battered women who have been coerced into committing crimes, criminal failure to protect, and criminal parental kidnapping or custodial interference.

The Institutes

Dr. Oliver J. Williams, executive director of the Institute on Domestic Violence in the African American Community, explains that the “normal way” of doing domestic violence work often overlooks the unique circumstances of diverse communities facing domestic violence issues. The recognition that a “one-size fits all” approach is insufficient, and the need to build a knowledge base and develop culturally-specific strategies to address the needs of racially and ethnically diverse victims, was the impetus behind the creation of the three multicultural Institutes. Because domestic violence has far-reaching consequences for

whole and extended families and communities, the Institutes utilize a gender analysis, community perspective, and culturally appropriate approach to address domestic violence in the African American, Asian and Pacific Islander, and Latino communities. Each program strives to provide innovative processes to enhance policy, programs, research, and assistance so that professionals working to end violence have the tools they need.

Finally, the National Center on Domestic Violence, Trauma and Mental Health cultivates a deeper understanding about the mental health and advocacy needs of survivors of domestic violence and their children, and the impact of trauma on individual healing and social change. To that end, they provide recommendations, build capacity, and facilitate cross-system dialogues about the complex intersections of domestic violence, trauma, and mental health, and current strategies to enhance work in this area.

The DVRN

Although each NRC, SIRC, and Institute specializes in a distinctive area of expertise, there is some necessary overlap in services. “A victim of domestic violence may be engaged in a custody dispute with an abusive partner, need medical attention related to her victimization, and attribute negative help-seeking experiences to racism in her community. She cannot compartmentalize each event, relationship, and axis of identification to create simpler solutions,” says Ruby White Starr, who directs the

Continued on page 4

In addition to providing training, public policy development, and producing publications, each of the five NRC/SIRC’s operates a toll-free line to provide non-crisis technical assistance targeting domestic violence advocates, attorneys, judges, child protective services workers, health and mental health providers, and community-based service providers.

The Domestic Violence Resource Network (continued)

Resource Center on Domestic Violence: Child Protection and Custody and is a board member of the National Latino Alliance for the Elimination of Domestic Violence. Victims can become frustrated and exhausted by the barriers, tasks, and number of system players involved in helping them to achieve safety. "We should make every effort to connect our work and services in the same way victims must manage their experiences; they are inextricably linked."

The DVRN is committed to strengthening the existing support systems serving battered women, their children, and families by partnering with community-based programs; state coalitions, local, state, and national agencies; tribal organizations; and policy makers. DVRN management team representatives speak monthly and DVRN program staff meet face-to-face at least twice annually to engage in public policy discussions that have national implications for survivors of violence and their children.

Developing Effective Responses to Critical Issues

On October 22-23, 2007, the DVRN hosted a *Developing Effective Responses to Critical Issues* meeting in Minneapolis, Minnesota. At this meeting, DVRN representatives from the BIHA Women in Action, Family Violence Prevention Fund, National Network to End Domestic Violence, PR Solutions, and University of Ontario, Institute of Technology in Canada convened to discuss gender symmetry, violence contextualization, communication

strategies consistent with cultural competence and anti-oppression work, promising fatherhood programs, and current trends impacting battered women and their children, and data to support them.

The DVRN conducted their winter business meeting on December 5-7, 2007 in Washington, DC, culminating with a moving tribute and warm farewell to William D. Riley, retiring program manager for the Family Violence Prevention and Services Administration of Children and Families, U.S. Department of Health and Human Services, who has made groundbreaking contributions to ending domestic violence throughout his career. The DVRN regional spring meeting is tentatively set for May 2008 in Detroit, Michigan. For information relating to the DVRN, please contact Katy Yetter, Senior Attorney, at (775) 327-5326.

1 National Resource Center on Domestic Violence

Provides information and resources, policy development, and technical assistance designed to enhance community response to and prevention of domestic violence. 800-537-2238
www.nrcdv.org

2 Battered Women's Justice Project

Provides training, technical assistance, and other resources on criminal and civil justice practices; including effective policing, prosecuting, sentencing and monitoring of domestic violence offenders. 800-903-0111
www.bwjp.org

The DVRN is committed to strengthening the existing support systems serving battered women, their children, and families by partnering with community-based programs; state coalitions, local, state, and national agencies; tribal organizations; and policy makers.

3 Health Resource Center on Domestic Violence

Provides specialized health care information, technical assistance and library services.

888-792-2873 or 800-313-1310

<http://endabuse.org>

4 The Resource Center on Domestic Violence: Child Custody Protection and Custody

Provides information, consultation, training and legal research related to child protection and custody.

800-527-3223

www.ncjfcj.org

5 Sacred Circle, National Resource Center to End Violence Against Native Women

Provides resource information and materials, technical assistance, and consultation to tribes, tribal organizations, and other individuals and entities seeking to assist tribes and tribal organizations within the context of domestic violence.

877-733-7623

<http://sacred-circle.com>

6 Asian and Pacific Islander Institute on Domestic Violence

Is committed to organizing, developing, and educating communities, providing culturally-specific assistance, and strengthening the visibility of the issues through

capacity building.

415-954-9988

<http://apoahf.org/apidvinstitute>

7 Institute on Domestic Violence in the African American Community

Utilizes a community perspective to address domestic violence in the African-American community and strives to provide innovative processes to enhance policy, programs, and research.

877-643-8222

www.dvstitute.org

8 National Latino Alliance for the Elimination of Domestic Violence (Alianza)

Addresses domestic violence in the Latino community through public awareness campaigns, research, and policy development, and provides assistance to national, state, and local organizations on Latino issues.

800-342-9908

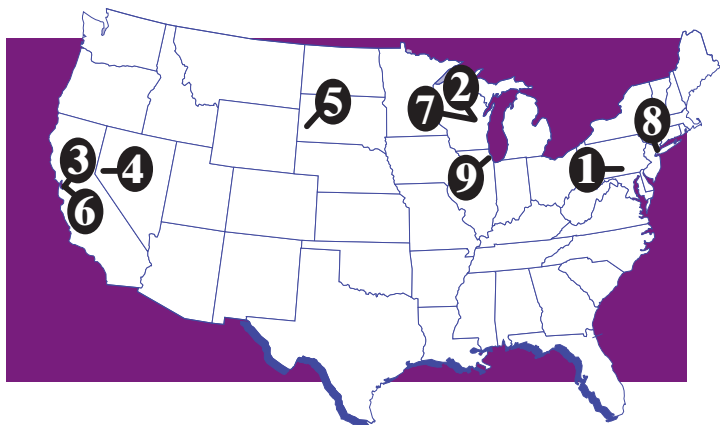
<http://dvalianza.org>

9 National Center on Domestic Violence, Trauma & Mental Health

Promotes the development of comprehensive, accessible, and culturally-relevant responses to the range of trauma-related issues faced by domestic violence survivors and their children.

312-726-7020, ext. 10

www.nationalcenterdvtraumamh.org



Building Bridges to Improve Outcomes in

Collaboration is intended not to erase our unique identity, but to declare our relevance, embrace our resilience, and secure our own voice. Advancing social change relies on the spirit, respect, quality of our relationships, and ways we work together rather than shy away from divergent perspectives because advocacy is difficult, controversial, or seems insurmountable. The Family Violence Department (FVD) of the National Council of Juvenile and Family Court Judges is guided by this philosophy in promoting multidisciplinary collaborative projects like the Federal *Greenbook* Initiative and Safe Havens:

Supervised Visitation and Safe Exchange grant program, and far-reaching, cutting-edge, products to enhance the safety, well-being, and stability of domestic violence victims and their children, such as *A Judge's Guide to Navigating Custody and Visitation Evaluations in Domestic Violence Cases* and *A Guide to Effective Issuance and Enforcement of Protection Orders*.

Celebrating Five Years of Targeted Child Custody Policy Work

This month the Resource Center celebrates the 5-year anniversary of the assembly of a multidisciplinary Child Custody Policy Working Group for

the purpose of examining the tensions among varying points of view about how to address domestic violence most appropriately in child custody conflicts, including court proceedings and related services such as case management, mediation, parent education, legal representation for the adults and children, custody evaluations, supervised visitation, and

parent coordinating; and to identify specific subjects for which the FVD can produce instructive and useful resources for judges and the field.

Among the core values identified by the Policy Working Group were:

- Safety for all family members and respect for families;
- The need for the learner to understand the complexity of the problem of domestic violence and the diversity of potential solutions; and
- The ability to recognize and respect differences and perspectives among the different professions.

The Policy Working Group also recognized the need for better research data, more judicial accountability, demystification of the court process, culturally appropriate responses and services, elevation of domestic violence in the assessment of the best interests of the child, and batterer intervention programs that address the needs of abusive fathers.

Several ventures have evolved as a result of those efforts. For example, the Resource Center produced a Family Violence Special Issue of the *Juvenile & Family Court Journal* featuring articles such as *Misconceptions in Addressing Domestic Violence in Child Custody Disputes* by Peter Jaffe, Claire Crooks, and Samantha Poisson; *High Conflict Divorce, Violence, And Abuse: Implications for Custody And Visitation Decisions* by Claire Dalton, Judge Susan Carbon, and Nancy Olesen; and *Creating Justice Through Balance: Integrating Domestic Violence Law into Family Court Practice* by Andrea Farney and Roberta Valente.

In another venture, the Resource Center provided consultation to the Association of Family and Conciliation Courts (AFCC) in the development of *The Guidelines for Parenting*

Advocates are acutely aware of the uneven playing field upon which perpetrators of this kind of violence stage their actions, and on the whole are leery of mediation and the entire complex of other alternative resolution tactics that over the years have become the mainstay of family courts.

Domestic Violence Cases

Family and Conciliation Courts (AFCC) in the development of *The Guidelines for Parenting Coordination* to make certain that the standards were competent in the area of domestic violence, and educated judges at the AFCC annual conference and the 6th International Symposium on Child Custody Evaluation in 2004.

Wingspread Conference on Domestic Violence and Family Courts

On February 15-17, 2007, the FVD co-hosted with the AFCC the Wingspread¹ Conference on Domestic Violence and Family Courts. This landmark conference brought together family court judges, lawyers, domestic violence advocates, social science and legal scholars, court administrators, and psychologists to consider ways to meet the needs of families experiencing domestic violence. Its goals included clarifying issues and definitions, improving the process for handling family court cases in which domestic violence is a component, allocating resources to better meet the needs of the families in these cases, and deciding how to move forward. A report resulting from this conference will soon be available to the public.

Divergent Perspectives

The FVD, though located in a judicial membership organization, has always maintained close ties with the domestic violence advocacy community. From the advocacy perspective, safety is and must remain the primary focus of the court and of all interveners in domestic violence cases, and should be of primary concern in determining access to the children and all other considerations. Advocates are acutely aware of the uneven playing field upon which perpetrators of this kind of violence stage their actions, and on the whole are leery of mediation and the entire complex of other alternative resolution tactics that over the years have become the mainstay of family courts.

The AFCC, on the other hand, is by and large the professional organization of the

mediators, custody evaluators, parenting coordinators, and other practitioners of these alternative resolution methods. To them, domestic violence includes not only cases marked by physical force and other coercive control but those involving other kinds of violence as well. They worry that these other kinds of violence do not get enough attention or resources, and acknowledge that bad practice can and does happen in every discipline, including those who provide these family-court-related services and interventions. But in general, the membership of AFCC believe that families stand at least as good a chance of having their particular dynamics accurately understood and responded to in the alternative dispute resolution world as they would in courts with critically overcrowded dockets.

Finding Common Ground

A cooperative effort between the FVD and AFCC is a natural and essential step toward the ultimate improvement of the family court response to families suffering domestic violence of any kind. First, the two share the common motivation of serving well their client families. Both want the same things:

- a clear understanding of the dynamics taking place in each family-and the development of the kinds of reliable screening tools and protocols that will afford this understanding;
- interventions tailored to the needs of each family, including the availability of resources that will afford safety for all family members, services that will enable violent family mem-

... in general, the membership of AFCC believe that families stand at least as good a chance of having their particular dynamics accurately understood and responded to in the alternative dispute resolution world as they would in courts with critically overcrowded dockets.

Continued on page 8

Building Bridges (continued)

- interventions tailored to the needs of each family, including the availability of resources that will afford safety for all family members, services that will enable violent family members to change abusive behavior patterns and develop the capacity and willingness to engage in healthy partnership and parenting relationships, and parallel services that will allow the non-violent family members to remain together in safe, stable, autonomous relationships; and
- ultimate outcomes that are appropriate to each family and have as their first priority the safety of all family members.

For a number of reasons, the leaders of the FVD and AFCC have realized that families can

For a number of reasons, the leaders of the FVD and AFCC have realized that families can no longer be asked to pay the price engendered by failure of the two to collaborate.

no longer be asked to pay the price engendered by failure of the two to collaborate. As our knowledge becomes more nuanced, we are all coming to agreement that not all uses of violence in interpersonal relationships are the same; and that the differences, which can be identified only by means of sophisticated screening, require differentiated interventions and outcomes. Though agreement has not been reached about exactly how to categorize or label these differences, there is a

general understanding that their distinguishing features center on the motivation of the person using the violence, its significance to the target of the violence, and the presence or absence of risk that the violence will be accompanied by coercive tactics.

Only by agreeing on terminology, encouraging a synergistic relationship between practice and research so that each feeds and informs the other, designing tools for accurate assessment and protocols for their use, fashioning and working together to provide services and interventions appropriate to each family, and

agreeing upon the appropriate outcomes for each family, depending upon the dynamics it evidences, can the family court truly provide its consumers the results they need and deserve.

Next Steps

The following activities are or will be happening or are being planned:

- Though funding is not yet available, working subcommittees are being formed to pursue an agreed-upon terminology; good screening tools and protocols; appropriate interventions and outcomes depending upon the dynamics that present themselves; and cultural sensitivity at every one of these steps.
- AFCC and FVD representatives who have never before worked together will team up to do research and to write. The next issue of the AFCC's Family Court Journal will consist of the Wingspread Report and the articles that have grown out of the conference. The articles will appear in National Council of Juvenile and Family Court Judges publications as well.
- Representatives from the AFCC and FVD will team up to make substantive presentations at various conferences sponsored by each of the organizations, focusing on the work that began at Wingspread and on subsequent developments.

Conclusion

Differing philosophies may abound on the benefits or damages the AFCC and FVD may experience from this relationship and whether it is a good approach. However, one thing is clear. When working to eliminate a problem as immense as violence and abuse in society and change social norms, one person, organization, discipline, or even society working in isolation, will not be able to draw out and harmonize divergent perspectives; create family court systems more appropriately responsive to the needs of all of the families who use it; build meaningful, sustainable change; and end the violence. It is up to us ALL.

Endnotes:

1. Wingspread is the conference center of the Johnson Foundation, in Racine, Wisconsin. The FVD is deeply grateful to the Foundation for underwriting this conference.

SUPERVISED VISITATION: Findings from the Kent, Washington Safe Havens Demonstration Site

When the city of Kent, Washington set out to create a supervised visitation center (Center) to serve victims of domestic violence and their children, organizers discovered a disparity between the services they afforded and what victims of battering believed they needed. Victims of battering described Centers as an arm of the court, a mechanism to force children into relationships with fathers they feared, and another avenue for batterers to extend their pattern of coercion and control for a longer period of time. One of the goals of the Kent Safe Havens: Supervised Visitation and Safe Exchange grant program (Kent Safe Haven) was to resolve this discrepancy.

As organizers of the emerging Kent Safe Haven probed further into the design and development of their program, they discovered that issues of access to the Center were equally critical. How did a domestic violence victim find out about supervised visitation? Decide whether to use it? Effectively communicate that decision to the court? Locate an appropriate visitation program? Kent Safe Haven sought insight to answer these questions by participating in a safety and accountability audit (audit) conducted by its collaborative partners¹ and the Office on Violence Against Women technical assistance providers (audit team).²

The audit process began in October 2005 and concluded in April 2006. During this time, the audit team conducted interviews with courts and advocacy agencies, and observed family law facilitation and court proceedings. Audit team members reviewed visitation case files, court records and forms, and advocacy materials. Focus groups with victims of battering and community advocates were held, as were meetings with national partners. Audit team members examined the

issues above to determine how domestic violence victims receive and understand information about Centers. What follows is an excerpt of the audit report that presents the methods, key themes, and recommendations that emerged in the audit process.

Methods to Standardize Practice

The purpose of the safety and accountability audit was to review possible gaps between what victims of battering need and what institutions and systems are currently organized to provide; and in doing so, to discover ways to close those gaps. In order to build on the strengths of these systems, the audit team examined eight key methods to standardize practitioner's thinking and actions across disciplines, agencies, government, and job function. These eight key methods for closing the gap in safety are: rules and regulations; administrative practices; resources; concepts and theories; linkages; mission; purpose and function; accountability; and education and training.

The audit team identified five major gaps or key themes in how victims of domestic violence learn about supervised visitation as an option for themselves and their children, how they express their concerns to the court, and how they find visitation and exchange services that are organized to recognize and account for battering.

Key Themes

1. Victims of battering need stronger advocacy and more complete information about legal processes post-separation.

The audit team found significant gaps in the information that victims received regarding the legal issues surrounding children, custody, and visitation. Domestic violence advocates, both community-based and system-based, did not have a systemic way of discussing options for visitation with battered women. The role of certain advocates impeded their ability to provide certain types of information. For example, role restrictions of advocates who provided assistance in the court-

Victims of battering described (Visitation) Centers as an arm of the court, a mechanism to force children into relationships with fathers they feared, and another avenue for batterers to extend their pattern of coercion and control for a longer period of time.

advocates who provided assistance in the courtroom with protection orders acted as an obstacle for victims in receiving holistic information about supervised visitation and other relief that may accompany an order of custody.

2. Intervening systems, such as the courts, advocacy, and supervised visitation, are disconnected and fragmented in their response and understanding of battering. The audit team discovered that women are not well-prepared to bring their experiences, fears, and concerns for safety forward in court.

Frequently, interveners are unprepared to talk with a victim of battering about ways that children may be used as part of battering, and how that affects her and her children's safety and well-being.

The courts do not share a clear, consistent understanding of supervised visitation in child abuse and neglect cases. Across the courts, differences of opinion existed between prioritizing safety for victims and their children and the perceived right of abusive parents to have access to their children. Fragmentation of these systems revealed the need for a stronger coordinated community response that includes domestic violence advocates, supervised visitation advocates, supervised visitation providers, family law attorneys, and court staff.

3. Victims of battering hear many messages about autonomy, self-determination, and empowerment, but systems and resources are not adequately set up to promote those values and to structure their practices accordingly.

The audit team discovered that interveners and decision-makers presume that most victims of battering have access to advocacy leading to assumptions about the experience of the victim of battering. There was little indication of advocacy-based counseling around questions of safe visitation and exchange. To assume that the victim has the tools to develop empowerment, autonomy, and self-determination erroneously implies that the victim of battering must have a certain assertiveness and forcefulness in seeking what she needs to craft safety, clarify issues, and solve problems.

4. Communication processes between courts and supervised visitation providers are not well-defined.

Judicial officers are not uniformly aware of the Center's philosophy and services, or how to determine which domestic violence cases supervised visitation and safe exchange services would best benefit. The Center in turn, has had to think about what, how, and whether to receive and share information from the court, both as a matter of policy and in specific cases.

5. Courtroom security does not fully account for the multiple ways in which a batterer might encounter and threaten or intimidate a victim. Victims may not feel safe to express their concerns freely regarding visitation in such a setting.

Safety in and around the courtroom is a major concern. Protection orders and their limitations on contact seem to have little meaning within the setting of the courtroom. The size and layout of the room allow a batterer to stay within close, intimidating distance before, during, and after the hearing. The expectation that a battered woman should be articulate, calm, and fully present under such conditions is unrealistic.

Recommendations and Next Steps

The audit revealed that victims of battering find out about supervised visitation and safe exchange in a variety of ways, if at all, before the subject comes up in a protection order hearing, when drafting a parenting plan, or when responding to recommendations made by the other parent or court personnel. Victims of battering are often unprepared to weigh whether and how supervised visitation or safe exchange will contribute to their and their child's safety or put them at further risk. They have few tools to help them evaluate the benefits and concerns and effectively communicate that information to the court. When supervised visitation or exchange is ordered, victims of battering have little information to evaluate how well supervised visitation is likely to protect them.

Safety in and around the courtroom is a major concern ... the expectation that a battered woman should be articulate, calm, and fully present under such conditions is unrealistic.

Across the courts, differences of opinion existed between prioritizing safety for victims and their children and the perceived right of abusive parents to have access to their children.

The audit team developed ideas for how court and community practices around supervised visitation and safe exchange could be organized and coordinated to support more fully informed and safe decision-making for victims of battering.

- Develop a video or print a guide for battered women about supervised visitation and exchange, how to request it or object to it, and how to effectively communicate their concerns. (The Family Violence Prevention Fund has developed such a guide: *Supervised Visitation for Mothers Who Have Experienced Abuse*. For more information visit <http://endabuse.org>.)
- Develop a similar guide for practitioners who routinely work with battered women, such as advocates and attorneys.
- Produce an informational video about the Safe Havens center, including a demonstration of a supervised visit, and make it available in waiting areas of courthouses and family law resource centers.
- Explore options for structuring a more proactive role for protection order advocates during court hearings.
- Develop a judicial bench book to guide decisions around visitation and exchange and increase the court's understanding of how supervised visitation can be used as a battering tactic. (The National Council of Juvenile and Family Court Judges, Family Violence Department, has developed *Navigating Custody and Visitation Evaluations in Cases with Domestic Violence: A Judges Guide*, which may provide a model for drafting a bench book on supervised visitation and exchange. For more information or to request a copy call (800) 527-3223 or visit <http://www.ncjfcj.org>.)
- Strengthen courtroom security and safety on domestic violence cases.
- Establish a supervised visitation and exchange order that is specific to domestic violence and sets expectations for supervision in such cases.
- Strengthen the role of the Safe Havens center and other supervised visitation services in the

broader community collaborative acting on behalf of battered women.

- Organize a coordinated community response for practitioners from courts, advocacy services, legal services, and supervised visitation programs to share information and strategize how best to serve battered women and children post-separation.
- Conduct further exploration of how batterer intervention programs, mandatory divorce seminars, and family law clinics shape decisions and practices around supervised visitation and safe exchange.

Conclusion

Victims of battering feel intense pressure to find a balance among safety for themselves and their children, their children's desires to see their fathers, and legal mandates around parental access. These are complicated waters to navigate, requiring advocacy that matches its complexity. Because of the willingness of the Kent, Washington community and its court system to step back and ponder the lives and experience of those who come through its doors, the next steps in addressing the complex issue of supervised visitation and safe exchange for victims of domestic violence and their children are possible.

Editor's Note: This article was excerpted and adapted from the *Kent, Washington Safe Havens Demonstration Site Safety & Accountability Audit: Final Report* funded by the U.S. Department of Justice, Office on Violence Against Women and prepared by Praxis International, Inc., in consultation with the city of Kent, Washington's Safe Havens Visitation Center. To read the full text of the report, please visit http://www.praxisinternational.org/sa_frame.html.

Endnotes:

1. Collaborative partners included Chaya, Domestic Abuse Women's Network, Judicial Officers and Staff of the King County Superior Court, King County Family Court Service, King County Prosecutor's Protection Order Advocacy Program, Northwest Justice Project, Refugee Women's Alliance, YWCA of King and Snohomish Counties, Anneliese Brown, Meghan Collins, Maren Hansen, Hon. William Jones (Ret.), Theresa LaLanne, Jorene Moore, Tracee Parker, Ellen Pence, Megan Petchel, Kellie Rogers, and Jane Sadusky.
2. The Office on Violence Against Women technical assistance providers include Praxis International, Inc. and the National Council of Juvenile and Family Court Judges (NCJFCJ). The safety and accountability audit team consists of staff from Praxis International, Inc. and NCJFCJ, and collaborative partner members.

Batterer Manipulation of the Courts to Further Their Abuse, and Remedies for Judges

Court Corner

Despite assumptions by laypersons that domestic violence ends with separation, in reality the batterer may respond to separation by escalating behavior in order to reestablish control or punish a partner for leaving. For example, the use of custody proceedings is a strategy commonly identified by batterers themselves as a means to control or harass former partners.¹ Research shows that batterers are more likely to apply for custody and equally likely to have it granted in comparison to non-violent fathers.² As a result, battered women have an ongoing need both for safety planning after separation and for consideration of a range of remedies and interventions from courts and court-related services.

Growing research indicates that litigation filed for the sole purpose of harassing a victim is not uncommon in civil legal matters involving domestic violence; and that it creates challenges for judges to determine whether a matter is legitimate and if not, what appropriate sanctions may be. Such was the case in *Davey v. Dolan*, a federal district court case in New York that imposed sanctions for vexatious litigation.³

In that case, the former husband, an attorney, sued the former wife (who, along with her children, had been granted an order of protection from domestic violence) and others, seeking several million dollars in damages from alleged wrongs arising from events surrounding his divorce.⁴ He also sued his son, two of the wife's family members, the wife's legal counsel and their respective law firms, the judge who presided over the divorce, and the State of New York, all for issues related to the divorce itself.

Davey first filed claims in state court and, when he was not successful there, filed his claims again in federal court. Each of the courts involved issued admonishments to Davey, and the United States District Court in 2006 held that he had failed to state any cognizable claim against any of the defendants. The court also held that Davey had litigated or could have litigated all of his claims in his prior suits. Therefore, Davey was sanctioned for what the court stated were frivolous actions, and ordered not to file any future suits relating to the divorce. The court held that all claims were completely without merit and that Davey should have known his suits would not be successful.

Davey filed a motion for reconsideration, but the court again in 2007 found no claims upon which relief could reasonably be granted. It reaffirmed a previous finding that "[g]iven the utter lack of merit of [his] claims, his vexatious litigation history, and the fact that he has continually and continues to file repetitive suits," an injunction against pursuing additional, related litigation was proper.⁵

The court went on to note that Davey knew, or should have known, that he had very little likelihood of succeeding on the merits of his claims for reconsideration, and therefore sanctions were proper in this case. In fact, the court stated that the sanctions (attorney's fees and expenses) were "quite reasonable, given the utter lack of merit of [Davey's] claims and his evident intent to harass [his ex-wife and her sister]."⁶

Sara Buel, clinical professor of law at the University of Texas School of Law, reports that legal clinics across the country have described an increase in similar cases. Said Buel, "this is a daunting problem for many of us. I'm delighted

... the former husband, an attorney, sued the former wife ... he also sued his son, two of the wife's family members, the wife's legal counsel and their respective law firms, the judge who presided over the divorce, and the State of New York, all for issues related to the divorce itself.

Safe Havens: Supervised Visitation and Safe Exchange Grant Program Guiding Principles

daunting problem for many of us. I'm delighted to see the [Davey] court take a stand against [vexatious litigation]."

The sheer volume of lawsuits that he filed made clear Davey's intent to harass. However, intent is likely to be murkier in the bulk of cases. To discourage frivolous claims, courts can analyze situations where an abuser appears to be using the legal system to further the abuse and can impose appropriate sanctions. A few ideas for bolstering the safety of domestic violence victims and avoiding waste of judicial resources include:

- Not letting first or subsequent violations of any order go by without consequences.
- Ordering the abuser to pay all reasonable costs, expenses, and attorney's fees incurred by the defendants in responding to the violation of any order or the filing of frivolous lawsuits, including lost wages of the victim.
- Even if not required to do so in your jurisdiction, making findings in your order that will be helpful to you and the parties should additional actions follow, such as requiring prior authorization from the court before filing further litigation or requiring the abuser to attach the court's opinion and order of injunction to all subsequent filings.

Endnotes:

1. See generally, Peter G. Jaffe, Claire V. Crooks, & Samantha E. Poisson, *Common Misconceptions In Addressing Domestic Violence in Child Custody Disputes*, 54 Juv. & FAM. CT. J. 57 (2003).3.
2. Zorza, J., 1996, How abused women can use the law to help protect their children. In Peled, E., Jaffe P., & Edleson, J. (Eds.) *Ending the cycle of violence: Community responses to children of battered women* (pp. 147-169) Thousand Oaks, Ca, Sage Publications.
3. *Davey v. Dolan*, 496 F.Supp.2d 387 (S.D.N.Y. 2007). Refer to the case for citations on all other litigation associated with this matter.3. *Davey v. Dolan*, 496 F.Supp.2d 387 (S.D.N.Y. 2007). Refer to the case for citations on all other litigation associated with this matter.
4. Among them, that Mary Davey telephoned the police to report an incident of domestic violence for the sole purpose of gaining a tactical advantage in the divorce.
5. 453 F.Supp.2d at 758.
6. 496 F.Supp.2d 387, 390

The U.S. Department of Justice, Office on Violence Against Women (OVW) recently introduced the *Guiding Principles for the Safe Havens: Supervised Visitation and Safe Exchange Grant Program* (Supervised Visitation Program). The *Guiding Principles* are a set of principles, standards, and practices to guide best practice in the provision of supervised visitation and exchange in cases of domestic violence, sexual assault, child abuse, stalking, and dating violence, and that reflect the statutory requirements and objectives of the grant program.¹

The *Guiding Principles* were initiated when OVW, in partnership with Supervised Visitation Program technical assistance providers,² convened a National Steering Committee (Committee) comprised of a diverse spectrum of national experts representing various disciplines of practice. The Committee included members from the judiciary and legal community, child welfare and domestic violence services, supervised visitation and exchange services, batterer intervention services, culturally-specific organizations, mental health professionals, federal agencies, and the academic community. Over the course of four years, six meetings were convened to further the development of the *Guiding Principles*, incorporate new and emerging trends around best practice, and gain insight about Supervised Visitation Program grantees.

OVW, the Committee, and technical assistance providers were acutely aware of the need to incorporate the voices of Supervised Visitation Program center service providers into the document. As a result, opportunities to learn from Supervised Visitation Program grantees were built into the development process. These opportunities included an all-grantee meeting during which grantees provided insight, professional perspective, and guidance to the Committee, and a grantee panel to review and provide feedback on the *Guiding Principles*.

Continued on page 14

While it took some time to finalize the *Guiding Principles*, they are a reflection of a thoughtful process. The *Guiding Principles* offer guidance around the development and administration of supervised visitation and exchange services to both Supervised Visitation Program communities and un-funded communities providing supervised visitation and exchange services to victims of domestic violence.

The *Guiding Principles* include six principles that represent the overarching philosophies that Supervised Visitation Program communities should use as a framework for center operation and in the larger community response to victims of domestic violence:

Principle I:

Visitation centers should consider as their highest priority the safety of child(ren) and adult victims and should treat both with equal regard.

Principle II:

Visitation centers should be responsive to the background, circumstances, and cultures of their communities and the families they serve.

Principle III:

Visitation centers should demonstrate a comprehensive understanding of the nature, dynamics, and impact of domestic violence and incorporate that understanding into their services.

Principle IV:

Visitation centers should treat every individual using their services with respect and fairness, while taking into account the abuse that has occurred within the family.

Principle V:

Visitation centers should seek to operate within a collaborative which has as its goal to centralize safety of child(ren) and adult victims and hold batterers accountable. The community collaborative will strive (1) to ensure a holistic response to each family member's needs; (2) to stop continued abuse of child(ren) and adult victims; and (3) to eliminate the social conditions that cause intimate partner violence.

Principle VI:

Visitation centers should work with the community collaborative to ensure that child(ren) and

adult victims have meaningful access to services and should actively link individuals to those services.

Each principle is accompanied by a narrative section, providing context for each principle; standards, which are general expectations that should be met by Supervised Visitation Program centers; and practices, which are concrete ways to accomplish the expectations outlined in the standards. While the standards and practices included in the *Guiding Principles* are considered to be good practice when addressing the needs of victims of domestic violence, centers funded under the Supervised Visitation Program can and are encouraged to go beyond the practices outlined within the document.

To obtain a free PDF version of the *Guiding Principles*, go to the publications link in the Family Violence section of the NCJFCJ website at <http://www.ncjfcj.org>. Print copies are available for a small fee and can be ordered via the NCJFCJ website or the Resource Center on Domestic Violence: Child Protection and Custody (Resource Center) at 1-800-527-3223. For more information about the Supervised Visitation Program, contact the Resource Center and ask to speak with a Supervised Visitation Program technical assistance provider, or visit the OVW website at <http://www.ojp.usdoj.gov/ovw>.

Endnotes:

1. 42 U.S.C. § 10420 (2006) (creating Safe Havens for Children).
2. Supervised Visitation Program technical assistance providers included the National Council of Juvenile and Family Court Judges, Praxis International Inc., Institute on Domestic Violence in the African American Community, the Family Violence Prevention Fund, and the Florida Clearinghouse on Supervised Visitation.

SAVE THE DATE!

National Latino Alliance for the
Elimination of Domestic Violence

Announces

From Emerging Dialogue to Social Transformation

Celebrating 10 Years of United Efforts
and Looking Toward the Future

Co-Hosted by Caminar Latino

Atlanta, Georgia • March 7-8, 2008

To register or get more information please visit

<http://www.dvalianza.org>

Town Hall Meeting: Balancing Access and Safety

How does the court balance the competing interests of parental access against safety of the child in family court cases involving domestic violence? This was the question raised at the *Town Hall Meeting on Child Custody Determinations in Cases Involving Domestic Violence: Balancing Access and Safety* (Town Hall Meeting) hosted by the Family Violence Department of the National Council of Juvenile and Family Court Judges (NCJFCJ) on October 12, 2007 in Reno, Nevada. The purpose of the Town Hall Meeting was to provide a forum for community members and interested professionals to discuss and analyze the complex nature of cases involving domestic violence and learn from a panel of experts providing services for these families.

Hon. Peter Macdonald, a retired judge who served as a district court judge in the Commonwealth of Kentucky for 25 years, facilitated the Town Hall Meeting. Panelists included Victoria Cambell, KRNV News Chanel 4 anchor; Amy Saathoff, Director of Development and Community Relations with the Committee to Aid Abused Women (CAAW) in Reno, Nevada; Caryn R. Sternlicht, Senior Attorney for Washoe Legal Services, a non-profit legal service provider for low-income residents of Washoe County, Nevada; and Dixie Grossman, a family law attorney.

Approximately 70 family court judges, attorneys, CASA representatives, psychologists, social workers, advocates, and community members attended the Town Hall Meeting, and participated in discussions on topics ranging from joint custody presumptions, to batterer intervention programs, to the role of the judge in the courtroom and in the community. During the event, Judge Macdonald described the complexities of judicial decision-making in custody cases involving domestic violence, attributing his knowledge to participation in the National Judicial Institute on Domestic Violence. In his experience, effective judicial decision-making requires knowledge of the dynamics of domestic violence; a comprehensive analysis of the context of the violence in intimate relationships including the motive of the violent partner, the meaning of the violence to its victim, and the risk of the vio-

lence being accompanied by coercive and controlling behavior; and appropriate screening and assessment strategies to determine necessary interventions and services to achieve safe and appropriate outcomes.

A reception made possible by Starbuck's Coffee, CAAW, and the 19th Hole Restaurant of Lake Ridge Golf course, followed the Town Hall Meeting that commemorated both the 70th anniversary of NCJFCJ and Domestic Violence Awareness Month. Danielle Pugh-Markie, Program Manager with the Family Violence Department, said, "the Town Hall Meeting exceeded our expectations. We are hoping to turn this into an annual event." For more information on The Town Hall Meeting, please contact Danielle Pugh-Markie at the NCJFCJ, PO Box 8970, Reno, NV 89507, (775) 784-6967 or dpugh-markie@ncjfcj.org.

Supervised Visitation: Information for Mothers Who Have Experienced Abuse

The Family Violence Prevention Fund has developed a new resource entitled *Supervised Visitation: Information for Mothers Who Have Experienced Abuse* (Supervised Visitation Guide). The 25-page Supervised Visitation Guide includes basic information about supervised visitation programs and how children may react to them; guidance around preparing for and using visitation services that includes information such as what to do if children do not want to visit and how visiting with a parent who has been violent might affect children; and suggestions for handling questions or concerns about the program and getting additional information. The Supervised Visitation Guide includes national links to local resources providing information on domestic violence, sexual assault, legal assistance, and supervised visitation.

The Supervised Visitation Guide can be downloaded and printed free of charge at the Family Violence Prevention Funds' website at www.endabuse.org. For additional information on how to use this publication, or if you would like to reprint this resource, please email childrensteam@endabuse.org. or call 415-252-8900.

SYNERGY

The Newsletter of the Resource Center on
Domestic Violence: Child Protection and Custody

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

Officers

Hon. Susan B. Carbon
President
Concord, New Hampshire

Hon. Dale R. Koch
Immediate Past President
Portland, Oregon

Hon. Patricia A. Macias
President Elect
El Paso, Texas

Hon. Douglas F. Johnson
Vice President
Omaha, Nebraska

Hon. R. Michael Key
Treasurer
LaGrange, Georgia

Hon. Patricia Martin Bishop
Secretary
Chicago, Illinois

Mary Mentaberry
Executive Director
National Council of
Juvenile and Family
Court Judges

Family Violence Department (800) 527-3223 • www.ncjfcj.org

This document was developed under grant number 90EV0378 from the U.S. Department of Health and Human Services (HHS). The points of view expressed are those of the authors, and do not necessarily represent the official position of HHS.

Family Violence Department

Billie Lee Dunford-Jackson, JD,
Co-Director
Maureen Sheeran,
Co-Director
Roberta "Rob" Valente, JD,
Assistant Director
Candy Behan,
Resource Specialist
Sara Blake,
Project Coordinator
Amy Brown,
Planning Specialist
Veronica Campos,
Resource Specialist
Rebecca Donato-Hardie,
Administrative Assistant
Jenny Emerson,
Training Specialist
Shannon Gaskins, JD,
Attorney
Brienne Hanretty,
Administrative Assistant
Tracy Keever,
Resource Specialist
Anna Koperska-Hill,
Administrative Assistant

Eloisa Paulino,
Administrative Assistant
Amy Pincolini-Ford, JD,
Program Manager
Danielle Pugh-Markie,
Program Manager
Sherrie Riley,
Program Manager
Michele Robinson,
Information Specialist
Yolanda Webb,
Planning Specialist
Jennifer White, JD,
Attorney
Zulema Ruby White Starr,
Program Manager
David Wohler,
Program Manager
Marta Wowak,
Grants Analyst
Erin Yale,
Administrative Manager
Kathryn Yetter, JD,
Senior Attorney

NATIONAL COUNCIL OF JUVENILE
AND FAMILY COURT JUDGES
University of Nevada, Reno
P.O. Box 8970
Reno, Nevada 89507

RETURN SERVICE REQUESTED

NON PROFIT ORG.
U.S. POSTAGE
PAID
RENO, NV
PERMIT NO. 122