

**A Guide to Providing Appropriate Family Time for Children  
Involved in Deprivation Cases**

**Domestic Violence Considerations**

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## VISITATION PROTOCOL PROJECT

### A Guide to Providing Appropriate Family Time for Children Involved in Deprivation Cases

#### ~ Domestic Violence Considerations ~

There are many instances in which those working with deprivation cases must consider diverting from the default family time provisions in order to attend to the individual needs of a child and family. Differential and flexible responses are necessary to be able to respond to the varied needs of families. A one-size-fits-all approach has never worked as it discounts an individual's values, experiences, and culture.

The existence of domestic violence is one of those instances. Domestic violence is pervasive in child deprivation caseloads and can impact families in both obvious and subtle ways. It is essential that professionals be aware of these subtleties and wherever possible work in coordination in order to enhance safety, stability, and well-being for all involved. The co-occurrence of domestic violence and child abuse/neglect creates a situation where there are several family members at risk, and decisions on how and if to intervene can be extremely difficult and dangerous. Whenever possible, strategies that compromise the vulnerability of one family member at the expense of another should not be employed. Thus, when domestic violence is a factor in a deprivation case, an additional lens must be applied when considering family time - that of safety for both the child and the victimized parent. Even when there is no digression in the frequency or timeframe of the default family time provisions, the circumstances and conditions under which family time will occur should still be given additional thought and examination to ensure safety.

This document was developed to guide attorneys, judges, DFCS workers, social service providers, child advocates, mental health professionals and others working closely with deprivation cases to consider how to mitigate potential problems with family time arrangements when domestic violence exists.

#### What is Domestic Violence?

Domestic violence is a pattern of assaultive and/or coercive behaviors that a person uses against an intimate partner in order to gain power and control in that relationship. The behaviors exerted can include physical, sexual, emotional and economic abuse. Domestic violence is not about losing control or an inability to manage anger. It is about the misuse or abuse of power to exert control over another human being. The most common forms of domestic violence are:

- Physical assaults/battery
- Sexual assault, including pressured, coerced, or forced sex
- Psychological/emotional abuse
- Threats of violence against the victim, others, or self
- Destruction of property
- Violence against pets
- Stalking and harassment
- Intimidation, humiliation, degradation
- Isolation
- Economic coercion
- Use of children to control the adult victim
- Exploitation or belittlement
- Threats or use of weapons
- Other forms of oppression

In Georgia, domestic violence is encompassed under a broader statute of family violence and pursuant to code section 19-13-1 means the commission of one or more of the following acts by a family or household member:

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|--------------------------------|----------------------------------|
| (1) Any felony;                | (5) criminal damage to property; |
| (2) simple battery or battery; | (6) unlawful restraint; or       |
| (3) simple assault or assault; | (7) criminal trespass.           |
| (4) stalking;                  |                                  |

Family or household members include past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household. Family violence does not include "reasonable discipline" administered by a parent to a child in the form of corporal punishment, restraint or detention that does not rise to the level of child abuse. For the purposes of this document, domestic violence means abuse or threat of abuse in between former or current intimate partners. This facet of the family violence definition is being highlighted as it adds a complex dimension to family time arrangements.

Intimate partner violence is primarily a crime against women. National crime survey data shows that men commit 95 percent of all assaults on female spouses or girlfriends. In 2001, women accounted for 85 percent of the victims of intimate partner violence and men accounted for approximately 15 percent of the victims. Women are much more likely than men to be killed by an intimate partner. Forty percent of all women murdered are killed by their husbands or boyfriends whereas less than four percent of murders of men are from intimate partner abuse.<sup>1</sup> Because domestic violence is mostly committed by men against female partners, this document refers to abusers as 'he' and victims as 'she.' However, the information provided should be understood as referring to all victims and abusers, regardless of the gender of either partner. Men can also be victims of domestic violence and intimate partner violence occurs in same-sex relationships.

### Why is Domestic Violence Warrant Special Consideration?

#### *Effects of Domestic Violence on Children*

Children are resilient, yet growing up in a violent home can affect a child's life and development. Research shows that nearly all children who live in homes where there is intimate partner violence see or hear the abuse. There are an abundance of studies available that provide documentation of various types of problems experienced by children who have been exposed to domestic violence. The level of risk in each family varies and domestic violence can have a multitude of complicated effects on children.

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<sup>1</sup> The estimate is that 10 percent of all men killed are murdered by an intimate partner, with a significant percent attributed to a woman acting in self-defense.

Symptoms experienced by children who have witnessed domestic violence can include:

- Sleep disorders
- Depression
- Bedwetting
- Learning problems
- Stomach aches
- Isolation from friends
- Truancy

In spite of this, we know that when properly identified and addressed, the effects of domestic violence on children can be mitigated. Many children have developed sophisticated strategies to protect themselves from being physically and emotionally harmed. There is not a typical way a child responds to intimate partner violence. Each child has a distinct reaction and even children within the same family can be affected differently. The way in which a child responds to the violence is based on a combination of their age, gender, temperament, level of involvement in the violence, interpretation of the experience, coping skills, and availability of support systems (friends, relatives, and other adults). While the impact of domestic violence on children is real and often palpable, a surprising number of children show significant resiliency in the face of this violence. Research demonstrates a critical connection between resiliency and a strong relationship between the child and the victimized parent.

This does not mean that all families experiencing domestic violence should be referred to DFCS nor does it mean DFCS will respond to all reports of domestic violence. Domestic violence is a risk factor for children. DFCS, the court, and others examine factors that can lead to a child safely remaining with the family or the abused parent. Some of these factors may include whether the caregiver demonstrates protective capacities; the children show minimal behavioral or emotional effects; the children have formed a relationship with a supportive adult; an adequate safety plan is in place for the children; and the violence is not currently escalating. *The safety of the child can be promoted by enhancing the safety of the victimized parent.* Recommendations and orders around family time should focus on what is safe and appropriate for the child given the nature of the alleged child abuse and/or neglect the child has suffered, the age of the child, the child's relationship with each parent, and the history of intimate partner violence.

Another impact of domestic violence on children is the influence that the battering partner exerts over the children's relationship with the victimized parent. Victims of domestic violence may be undermined in their parenting role as the battering can corrode the abused parent's relationship with her children in many ways. Perpetrators of domestic violence may thwart their (ex-) partners' parenting in ways both obvious and insidious. A batterer may: involve the children in further controlling or harming the victim (e.g. have the children monitor the victimized parent); sabotage the other parent's authority through constant criticism or negative remarks; engage in activities with the children that the abused parent has forbidden; destroy the children's belongings when the abused parent counters his authority; or tell the children that the victimized parent does not love or want them. Thus, DFCS workers, child advocates, attorneys, and judges should not be surprised if they encounter children who have a closer bond with the battering parent than with the abused parent. Children may have adopted the philosophies that support intimate partner violence and may begin to model similar behaviors. For example, they blame the victimized parent for the abuse and problems in the family, use violence to resolve conflicts, or inflict abuse (emotional or physical) on the victimized parent or siblings. Ideally, each child should be referred to an expert in domestic violence and/or trauma who can determine what supportive services are needed to help the child cope with the violence that has occurred in the family.

### *Post-Separation Violence*

Post-separation violence is common in intimate partner violence situations and separation can serve as an impetus for increased violence. Systems, service providers, and the community must be ready to address the ongoing possibility of harm that exists for victims of domestic violence when they are no longer residing or involved with their abusive partner. Victims have reported that after separation, their former partners have stalked, harassed, verbally and emotionally abused, beaten, and sexually assaulted them. Thus, the time during which a victim is pursuing a protection order or a divorce, or taking other steps to extricate herself from an abusive relationship is an extremely dangerous period. After separation, children remain the link between the battering and abused parent. Custody and visitation arrangements are potentially dangerous for both the abused parent and children. Post-separation acts of violence are not solely directed toward the former partner. Other targets commonly include children, the spouse's new partner, and individuals identified as aligning with the former partner.

The legal system is effectively used by batterers as a way to exert and maintain control over a victim through continual litigation on child custody and visitation issues. Litigation is an opportunity to reassert the control batterers feel themselves losing as the relationship ends. Batterers can attempt to intimidate their partners by threatening to take the children away (for example, by making false reports to DFCS, kidnapping, or maintaining ongoing litigation around custody or parent-child contact) and countering such actions can be financially devastating for victims. Hence, courts and professionals can inadvertently become tools for batterers to continue their abusive behavior.

The battering partner may use the tactics listed below to try to retain power and control over the victimized parent. These tactics:

- Telling the children that they cannot be a family because of the victim
- Showing up unexpectedly to see the children
- Calling the victim constantly under the guise of talking to or about the children
- Showering the children with gifts during visits
- Undermining the victim parent's rules for the children
- Picking the children up at school without informing the abused parent beforehand
- Stalking
- Keeping the children longer than agreed upon or abducting them
- Asking children what the victimized parent is doing and who she is seeing
- Criticizing, assaulting, or threatening the victim's new partner
- Threatening to take custody away from the victim if she does not agree to reconcile
- Telling the children that the victimized parent is an alcoholic, addict, or mentally ill
- Keeping court cases active by frequent filings
- Physically abusing the children and ordering them not to tell their mother
- Abusing his new partner in front of the children
- Changing visitation plans without notice

Domestic violence is about power and control. Batterers are able to decide when, where and how they are going to inflict abuse. This means that many professionals will never see the violent side of an individual. In fact, many professionals report that men who batter are quite charming in their interactions and are able to manipulate situations in their favor. As systems and professionals become involved with a family, the abusive partner may look for ways to get these individuals to collude with him against the victim. In some

cases, perpetrators actively employ the legal system as a means of maintaining ongoing control of their victims. Simultaneous misuse of the child protection system is not uncommon in these cases; excessive reports to the court or DFCS on minimal grounds may indicate the tendency to use official systems for harassment purposes.

### *Decision-Making by Victims of Domestic Violence*

Probably the most common response by the community, law enforcement, and social service agencies to domestic violence is requesting that the victim leave the abuser. The inference is that stopping the abuse is her responsibility. This mindset not only places the focus of interventions on the victim's behavior but also assumes 1) that leaving is a viable solution; 2) that ending the relationship is what the victim desires; 3) that ending the relationship is in the child's best interest; and 4) that leaving will stop the violence. Usually, one or more of these assumptions is not true.

A battered parent involved in a deprivation case will have to manage complex and conflicting demands. The victim may have to weigh the threat of the removal of her children against the potential retaliation the perpetrator may exact if she complies with the requirements of a case plan. She may hesitate to participate with an assessment for fear that abuse will be substantiated against her. The batterer may be working to undermine her efforts to comply with a case plan. Not knowing who her allies are, the victimized parent may not offer up all of the information she knows, leading the court or others involved with the family to believe she is lying or trying to protect the perpetrator. For a battered parent there may be no clear decision to make or all choices may seem dangerous.

When a battered parent is protected from abuse, she then is better able to protect her abused child. Even if the abusive relationship dissolves, frequently victims want their children to have a relationship with their fathers *if it can be done in a way that does not compromise their own safety or the safety of their children*. Adult victims may experience depression, stress, isolation, and loss of self-confidence which in turn, may affect the ways in which they care for their children.

Victims of domestic violence are usually in the best position to determine what measures will increase or decrease their safety and the safety of their children. It is important that this determination and autonomy be valued and respected. Supportive, non-coercive, and empowering interventions that promote the safety of both the adult victim and their children should be incorporated into deprivation proceedings.

### *Barriers to Leaving*

Everyone deserves to live without violence. Many victims of domestic violence simply want the violence to stop. In the face of abuse and assaults, a battered parent often confronts difficult decisions. How will she protect herself and her children from the physical dangers posed by her partner? How will she provide for her children? How will she manage the complex, and for many families, enduring relationship with the batterer over time? The barriers to escaping may be invisible to those outside of her world, but they are extremely powerful. Victims of domestic violence stay in abusive relationships for many reasons, some are:

- Love
- Belief that the violence is her fault.
- Hope that the batterer will change.
- Poverty and economic dependence (including lack of safe housing, loss of income and ability to provide for the children, loss of employment due to domestic violence, lack of job skills, and loss of health insurance benefits for children).
- Social and geographic isolation.
- Fear of further violence (she may have made attempts to leave before and there was an escalation in the abuse).
- Protection of the children (she believes that if she leaves he will kill her or the children or she won't be able to protect them if he get unsupervised contact with the children).
- Lack of knowledge about the community's resources and how to access help.
- Negative experiences with systems and friends (she may have tried to talk to others about what is happening in the home and received unhelpful or judgmental responses. Or, if there was prior system involvement, the police and court may have failed to hold the perpetrator accountable for violence, reinforcing the messages the abuser has sent her about his ability to remain above the law).
- Emotional dependence (conflicting feelings of fear, shame, bewilderment, hope that things will improve, and a commitment to the relationship).
- Lack of confidence (after living with an abusive partner, the self-esteem of most women has been eroded to the point where they no longer have confidence in themselves, including their ability to survive alone, and may believe that there are no other options).
- Her belief system (she was brought up to believe that real fulfillment comes from being a wife and mother or that divorce is wrong. She may even be encouraged to stay in the relationship by family members or religious leaders).
- Fear of bringing shame on her family or cultural group.
- Legal status (if a woman is undocumented she may be afraid of identifying herself to authorities for fear of deportation. Her abuser may have withheld filing the proper paper work in order to keep her under his control. If she is an immigrant/refugee she may not be aware of her legal options and believes she will have no way to support herself and her children).
- Language barriers
- Escalating violence, intimidation, stalking or coercion.

Victims of domestic violence may face additional barriers in accessing services if they are members of a group typically under-served by traditional agencies. Social service organizations and civil and legal systems have not been as responsive to victims whose primary language is not English, victims with disabilities, lesbians, gays, bisexuals, transsexuals, and trans-gendered people, and victims from diverse cultural and/or faith groups. Identifying culturally appropriate and accessible services is a crucial part of effective interventions for families.

Professionals involved in deprivation cases must be prepared to be involved with families that despite the existence of domestic violence, want to remain together. Professionals will be challenged to seek options that can keep children safe within that family arrangement if at all possible. It is highly recommended that this is discussed during case staffing and that strategies employed that do not punish a family for pursuing this option.

### *Protective Strategies of Victims of Domestic Violence*

Victims of domestic violence are often in survival mode. Without a sufficient understanding of domestic violence, volunteers and professionals may rely on their subjective interpretations of a battered parent's demeanor. Historically, adult victims' decisions or behaviors have been misinterpreted as instability, apathy, uncooperativeness, or even vindictiveness.

Recognizing a battered parent's survival strategies and developing recommendations and case plans that build on those strategies will increase the likelihood of success for protecting children. Therefore, it is important to consider the history of abuse and the abused parent's efforts to manage existing safety threats and prevent additional safety threats to the children from arising. The following examples are ways an adult victim may try to protect herself and her children:

- Fighting back and defying perpetrator (could have led to her arrest).
- Trying to improve the relationship with her partner.
- Sending the children away from the home.
- Pleasing and placating the perpetrator, complying with demands.
- Remaining silent and not telling anyone about the violence for fear of making it worse.
- Leaving to try to make things better.
- Returning to try to make things better.
- Enduring a beating to keep the batterer from attacking the children.
- Establishing safety plans with her children.
- Avoiding the perpetrator (e.g. working separate shifts).
- Calling the police, seeking help from family members, obtaining a protective order, going to a shelter, or trying to find help for the perpetrator.
- Dropping the protective order or withdrawing from help.
- Learning to be "devious" as a way to survive.
- Having sex to placate the perpetrator and protect the children from violence.
- Drinking and using drugs to numb the pain.
- Lying about the perpetrator's criminal activity or child abuse so that he will not further hurt the victim or the children.

### Domestic Violence and Family Time:

There are several ways in which a deprivation case may also involve domestic violence. Here are some of the most common scenarios:

- 1) Domestic violence was the underlying factor that brought the family to the system's attention and led to the abuse or neglect of the child. For example, the child was hurt when he/she got in the middle of a fight.
- 2) The children were abused or neglected in an unrelated manner and during the course of interviews or pendency of the court case the fact that domestic violence is occurring in the home has come to the attention of a professional involved in the case. This information can impact the delivery and success of services for the family.

- 3) The biological parents of the abused or neglected child are not together but there is a history of domestic violence between them and the court case either reestablishes contact or provides further access for the battering parent to the child and abused parent.

According to the default family time provisions, there are a number of factors to consider in deprivation cases focusing on the best interest of the child. When domestic violence is also a factor, family time presents additional safety concerns because of the risk posed to the adult victim and the opportunity for the battering partner to exert influence over the relationship and interaction of the adult victim and child. Depending upon the circumstances of the case, the court may need to consider family time between: the child and both parents, the child and victim parent, or the child and battering parent. These are all very different situations that require attention to reunification, access, and safety.

The batterer's relationship as a parent presents complex issues. The perpetrator may not have been physically abusive to the children. However, the domestic violence can produce a traumatic climate for both the adult victim and children. In addition, the tactics of manipulation and control may be present in the batterer's relationship with the children.

#### What Are Some Emerging Best Practices in Cases Where Domestic Violence Exists?

- Separate Case Plans: Courts and DFCS workers should ensure that parents have separate case plans so that one's non-compliance does not affect the other. This provides DFCS and the court flexibility to create different parameters around family time for each parent. Additionally, a separate case plan affords the victimized parent privacy in the specifics of her case plan which reduces the opportunity for coercion and intimidation.
- Consistent Court Orders: It is imperative that court orders do not conflict. Professionals and court personnel should check for existing restrictions that may impact family time through protective orders, conditions of probation, or other preexisting court orders. Therefore, if a protection order is in place, the court should not compromise safety by creating family time where the parties have contact or where a child is having family time with a parent where no contact has already been established.
- Screening: It is recommended that deprivation cases are screened early for domestic violence. The goal is not to add another issue to the case plan, but instead to bring greater understanding to issues the family may face as they work toward reunification with their children. Through screening professionals can also assess who is the victimized and who is the battering parent. As described, batterers often claim the victim has mental health, substance abuse, or anger management issues as a way to keep the focus on her.

In deprivation cases, relatives are commonly used to assist with visits or exchanges or are considered as possible placement options. When there is the intersection of domestic violence and child abuse, it is incumbent on the court and professionals to determine if:

- The relatives understand and acknowledge the risks presented by the perpetrator.
- The relatives do not blame the victim for the violence.

- The relatives will not collude with the batterer against the adult victim.
- The relatives understand or are willing to learn about the effects of domestic violence on the children.
- There is a history of domestic violence by any person in the household.
- The relatives can work with intervening professionals to provide continued safety, including complying with all the court orders.

When searching for absent parents in any case, ask about any history of domestic violence in that relationship. Check police records, restraining order information and other sources. If the battered parent is concealing her whereabouts from him for safety reasons, refer her to a domestic violence advocate for safety planning, and take necessary precautions when preparing written information and court documents. Promoting contact between children and a violent ex-spouse may create an opportunity for renewed domestic violence through visitation and exchange of children.

- Expertise: The juvenile court should ensure that all participants in deprivation cases are trained in the dynamics of domestic violence, the impact of domestic violence on adults and children, and the most effective and culturally responsive interventions in these cases including safety planning.
- Safety Planning: The victimized parent should be given the opportunity to create a safety plan with a domestic violence advocate. Safety planning is a process where victims of domestic violence explore and evaluate strategies to safeguard themselves and their children in different situations that may bring about safety concerns. The philosophy is to have decisions made in advance so that in case an emergency arises, there are concrete plans in place to achieve, eliminate, or manage a safety threat. Studies show that safety plans that address the needs of adult victims and their children together are more effective and more likely to be maintained by the family after service providers are no longer involved. As with any strategy, safety plans **do not guarantee** safety. They are a mechanism to increase that possibility. A safety plan is not something that should be required nor should any particulars *of either the victimized parent's or child's safety plan ever be disclosed*. The rationale is that if the battering partner has information about the safety plan, then the plan is no longer viable
- Batterer Accountability: Accountability means placing responsibility for abusive and controlling behavior on the perpetrators of such behavior. In deprivation cases, accountability means that either the batterer stops behaving in a manner that is violent or, depending on the severity of abuse and the surrounding circumstances, the batterer loses access to his children or access is restricted or monitored. As the case proceeds, the court should hold batterers accountable for violations of protective orders and for non-compliance with case plans and other orders. If the batterer wants to remain an active part of the family, the court should consider ordering the parent to participate in a batterer intervention program.
- Confidentiality: When courts and agencies exchange information concerning family members, the safety and privacy concerns of all parties must be balanced carefully with the need for access to such potentially harmful information. Examination of how safety and confidentiality are

intertwined must occur in each individual case. Professionals should work in collaboration to determine how they will handle cases when they need to share information with the court but doing so could compromise the safety of a family member. In deprivation cases, information is gathered and reviewed from various sources in order to obtain a comprehensive view of the factors that may be impacting the children and their parents/caretakers. If revealed, this information can be at a minimum embarrassing to the family; at a maximum make both the children and adult victim vulnerable to further harm by the batterer. In order to preserve safety, **identifying information should be removed from reports and court documents.** There is a litany of types of information that can put a battered woman and her children at risk, such as documentation about her job, where she lives, contact numbers and names of friends, details of a safety plan, updated photographs, details about her automobile (license plate, make and model), sharing that she is in a new relationship, that she is seeking counseling, comments about the children taken out of context, information about where the children go to school or after school activities, or that the adult victim is thinking of moving.

- **Community Resources:** It is essential for the courts and professionals to maintain a working knowledge of what resources are available in the community and how they can be accessed. In domestic violence cases, families may need a multitude of resources, such as housing, support groups, financial assistance, job training, health care, child care, etc. When it comes to family time that means knowing whether the agencies that offer supervised visitation and exchange services have been specifically established to work with families who have experienced domestic violence. For example, do the monitors have specialized training? Do they have a location that will permit staggered arrival and departure times and separate entrances so that parents do not have contact with one another? Are there policies in place that address domestic violence and the subtleties of undermining the efforts of the other parent? Do monitors and staff understand that “good” behavior at the center is not indicative of the likelihood of future violence? Is safety attended to regardless of whether the victimized parent has custody?
- **Decision-Making:** The design of the family time must include procedures that meet the safety needs of both the child and the victimized parent. The following suggestions are starting points for family time. It cannot be emphasized enough that each child and each family needs an individual assessment about what will work best in terms of family time. The court and DFCS should consider the impact and relationship of domestic violence on each individual child before deciding whether to deviate from the default schedule for the parent that has perpetuated the intimate partner violence. Orders should be set up that prevent the battering parent from contacting the victimized parent about the children or having joint decision-making regarding family time arrangements. Instead, decision-making in most circumstances should remain with the abused parent.

When available, measures should include, but not be limited to, arranging different visiting schedules, using supervised visitation and exchange services or a safe drop-off/pick-up location, and including provisions in a safety plan in case the batterer unexpectedly appears. Other factors to consider are whether there has been: serious injury to the adult victim; threat of child abduction; reports of an increase in either the frequency or severity of the violence; stalking; the use or threat of use of weapons; or threats of suicide or homicide.

If the victimized parent is visiting the child use the same analysis that is currently available through the default protocol. There still may need some additional safety precautions for the victimized parent that will need to be in place.

If the battering partner is visiting a child consider ordering no contact or at a minimum supervised family time until such time that safety can be assessed. If the child is in the protective custody of the victimized parent, then procedures must ensure that the battering partner does not have the chance to harass, abuse, or stalk the adult victim during his family time.

If the victimized and battering parent both require family time, the initial presumption is that they should occur separately, even if the parents remain together as a couple. Professionals and the court should make every effort in this situation not to reduce the amount of time that parents have to visit with their children. The separate family time arrangements are not a punishment. Instead, creating separate opportunities for family time does several things: allows time for parents to each build a healthy relationship with the children; facilitates the development of unique family time arrangements for each parent that keep the focus on safety of the child and adult victim and accountability on the batterer; and is consistent with creating separate case plans and preserving the abused parent's confidentiality.

Oversight: The court and professionals involved in the types of cases discussed in this document need to pay ongoing and particular attention to how domestic violence may be impacting family time and other reunification efforts throughout the life of the case. This means more frequent case staffings with Domestic Violence Team representatives and additional hearings to ensure that all needed services are being offered and those ordered are appropriate for the individual family and situation.

### Conclusion:

Family time is an important aspect of deprivation case plans. It assists children what have been placed into foster care remain connected with their parent(s), helps retain some sense of normalcy, and is essential to reunification. There are numerous facets to each family's situation and individual consideration must be given to crafting family time arrangements that serve the children and family members in question. When domestic violence is also a factor, intervening professionals need to be aware of the risks and subtleties with family time for the victimized parent and account for safety in that regard.

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