

on safety's side

**Protecting Those
Vulnerable to Violence:**

Challenges to Notions of Neutrality
in Supervised Visitation Centers



TECHNICAL ASSISTANCE ON SUPERVISED VISITATION AND SAFE EXCHANGE

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part I

Why Is Neutrality Such a Hot Topic?



INTRODUCTION

Federal funding for visitation centers focusing on serving families with a history of domestic violence has changed the landscape in the supervised visitation center field. The funding requirements have challenged the almost universally accepted values of neutrality and prioritizing children's safety needs. This paper is an invitation to visitation centers serving families with a history of domestic violence to engage far more actively and broadly in the work of protecting victims of violence. Doing so involves protecting both adult and child victims and requires a re-examination of the idea that visitation centers have an obligation to the court to be neutral in the "conflict between parents using a center."¹

Why is neutrality in visitation centers such a "hot topic"?² The answer lies partly in understanding the different functions of visitation centers and how they have changed over time. Some of these functions are best served by being neutral, while others require centers to be positioned against violence and on the side of those who are vulnerable to it. Much of the conflict about neutrality also arises from confusing the term "neutrality" with the related but conceptually distinct notions of fairness and impartiality.³

Visitation centers have argued that "putting kids first" requires neutrality in the "conflict" between the parents. But this position frequently puts adult victims of violence in unnecessary competition with their children for protection. This is harmful and not the intended outcome of centers adopting a stance of neutrality. Those in the field who raise these questions are not partisan, biased against men, or more caring about women than they are about children. However, to be serious about protecting children and adult victims of ongoing abuse from the different kinds of harm caused by domestic violence, an examination of visitation centers' practices of neutrality is called for.

WHAT'S IN A WORD?

The way we think is shaped by (and shapes) the way we talk. The way we talk shapes the way we act. On one hand, "neutrality" is just a word. On the other, social theorists assert that words are not "neutral" in describing a world of widely accepted concepts. The language we use to talk about something actually constructs that reality, rather than simply describing it. It becomes the lens through which we make sense of our world, a world that can't truly exist without the language we use to live in it and talk about it.

1. The claim that centers have an absolute obligation to neutrality in their dealings with adults using centers is enshrined in the standards of the Supervised Visitation Center Network, the largest organization representing visitation centers in North America, The Supervised Visitation Network Standards for Supervised Visitation Practice, May 2006. It is also articulated in a law review article by Nat Stern and Karen Oehme, "Defending Neutrality in Supervised Visitation to Preserve a Crucial Family Court Service," 35 *Southwestern University Law Review* 37 (2005).

2. The 2006 national Supervised Visitation Network (SVN) Conference was dedicated solely to Neutrality in Supervised Visitation Centers.

3. We thank Barbara Hart for putting the dilemma of centers' obligation to the court to be neutral into one of her "let's talk" e-mails to which many attorneys and judges responded, offering a distinction between a center's active role of providing protection for the vulnerable from abusers and a center's obligation to be fair and impartial in the role of informing the court of experiences with family members using the center.

Words embody actions and practices. Theorists use terms like “discourse” and “discursive resources” to describe how key words, concepts, themes, and professional or institutional frames of reference shape the way we see and therefore relate to the concrete situations in which we find ourselves, whether working in a visitation center, caring for patients at a hospital, studying at a university, or interacting in our most intimate relationships.

Social theorists point out that invisible power relations are often embedded in the ways we normally talk about things and in the actions that flow from that talk. Narrative therapists who work with people with anorexia, for example, try to disrupt what they call “ana-talk”—the stories or accounts through which anorexics view their bodies and make sense of their situations. Disrupting the negative aspects of ana-talk is a central strategy in changing eating behavior.

Words, whether in acts of Congress, legal rulings, policy documents, intake forms, or funding guidelines, have become central to determining how work is done in modern societies. We coordinate our work and actions through texts. To make changes in the way we do our work, we need to make changes in the words we use to carry it out.

ACCOUNTABILITY

4. If a center's work had grown out of child protection services' goal of protecting children from an individual parent who was harming them, this might make sense. But we must not unwittingly assume that victims of violence are a danger to their children, from whom their children need “protection,” or between whose interests we need to choose. Individualistic models of families tend to see families as collectivities of individuals whose interests are separate, and thus a battered mother's safety is not seen as intimately related to the welfare of her children. Relations models tend to see the welfare of children and their mother as inseparable.

Being accountable to victims by maintaining our values, in this case safety, means continually reflecting on how we do our day-to-day work. Does this policy or procedure or way of doing things promote safety? Does our practice of neutrality really make victims safer?

Visitation centers face a dilemma. For years, many centers acted on their promise to provide a safe place for children by remaining neutral in the “conflict” between the parents and making children's safety and their emotional needs the central organizing principle.⁴ Neutrality, which became synonymous with the notion of “not engaging in the parental conflict,” was seen as a way of putting children first.

There is no question that visitation centers do very valuable work. But battering, in which one person dominates another through violence, is not a “conflict between parents” in which a center must remain neutral. The stance of neutrality as it is widely practiced can unintentionally advantage abusers, thus compromising accountability to victims of battering and their children.



HOW THE NEUTRALITY DEBATE BEGAN

A new federal funding program played a key role in the emergence of the neutrality debate. By the 1990s there was increasing awareness of the way children were affected by domestic violence, and this made protecting victims far more complicated than previously appreciated. Several publications and reports outlined the interconnected kinds of damage violence did to battered women and their children and also the ways in which child custody fights and visitations exposed victims of violence (typically mothers) to further violence, unequal power, and harm.⁵

Congress recognized this connection by authorizing the Safe Havens: Supervised Visitation and Safe Exchange Grant Program (Supervised Visitation Program) under the Violence Against Women Act of 2000. Under the new program, funding was available through the U.S. Department of Justice's Office on Violence Against Women (OVW) for centers that provide supervised visitation and safe exchange of children by and between parents in all situations involving domestic violence, child abuse, sexual assault or stalking and design their programming to address their individual safety needs. The requirements of the funding linked adult victim safety and children's welfare and safety in ways which were unfamiliar to many practitioners who had until then worked in child-

5. Susan Schechter and Jeffrey L. Edleson, "In the Best Interest of Women and Children: A Call for Collaboration Between Child Welfare and Domestic Violence Constituencies," *Minnesota Center Against Violence and Abuse* (1994); Schechter and Edleson, "Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice," *National Council of Juvenile and Family Court Judges Family Violence Department* (1999); Jeffrey L. Edleson, "The Overlap Between Child Maltreatment and Women Battering," *Violence Against Women* 5, no. 2 (1999): 134-154; Peter G. Jaffe, David A. Wolfe, and Susan Kaye Wilson, *Children of Battered Women* (Newbury Park, CA: Sage, 1990); Peter G. Jaffe and Robert A. Geffner, "Child Custody Disputes and Domestic Violence: Critical Issues for Mental Health, Social Service, and Legal Professionals," in *Children Exposed to Marital Violence: Theory, Research, and Applied Issues*, ed. George W. Holden, Robert A. Geffner, and Ernest N. Jouriles, 371-408 (Washington, DC: American Psychological Association, 1998).

service agencies or in visitation centers that embraced as their primary mission the protection of children from neglectful or abusive parents. The Supervised Visitation Program goals clearly raised questions about the goals of “putting kids first” and taking a “neutral” stance in the conflict between the adults.

In 2002 communities across the country began receiving grants to provide direct funding for the specialized visitation centers described above. An explicit requirement of this funding was that grantees would design their centers to give protection to both the children and the adult victims of abuse and to work in collaboration with the courts and victim advocacy programs toward that goal. This required a paradigm shift for centers that identified themselves as “child centered” and independent of other community agencies, including domestic abuse advocacy programs.

Many centers were set up explicitly to protect children and were therefore child centered. If they were to be funded under the Supervised Visitation Program, centers that had identified the child as their primary client and claimed a neutral role in the “conflict” between the parents were required to reconsider a number of their assumptions and practices in light of OVW’s expanded mission. It took some time for the implications of both these funding-related policy changes to be realized, and the debate and dialogue that they engendered exposed significant policy differences within and between visitation centers. Changing involved taking a significant new approach.

To facilitate thinking through the implications of a new approach, the Supervised Visitation Program made monies available for an ongoing national program of dialogue, debate, and training. This program offered an educational and networking opportunity for all grantees to critically examine their policies, practices, assumptions, and theories with an eye toward prioritizing safety for both children and adult victims of abuse in the design and implementation of all their programs. Center workers, court personnel, and victim advocacy program workers were brought together, and every aspect of current practices in centers was examined. It was here that the differences mentioned above became clearer.

THE ROLE OF TRAININGS AND DISCUSSIONS IN PROBLEMATIZING NEUTRALITY

Everything was looked at with fresh eyes: What do monitors document, and why? What is the role of the center in keeping people safe entering and exiting the center? How can centers work safely, respectfully, and effectively with people from diverse cultural and economic backgrounds? How much security is enough, and is it ever too much? What about wands, pagers, metal detectors, and guards? How and when should monitors intervene in visits? How should visitation centers communicate

information about victim safety to the court? What role should an intake worker take when talking with a mother who is being battered and who is clearly uninformed about her options and their implications for her safety? Does neutrality require she be left uninformed? Is it advocacy to inform her?

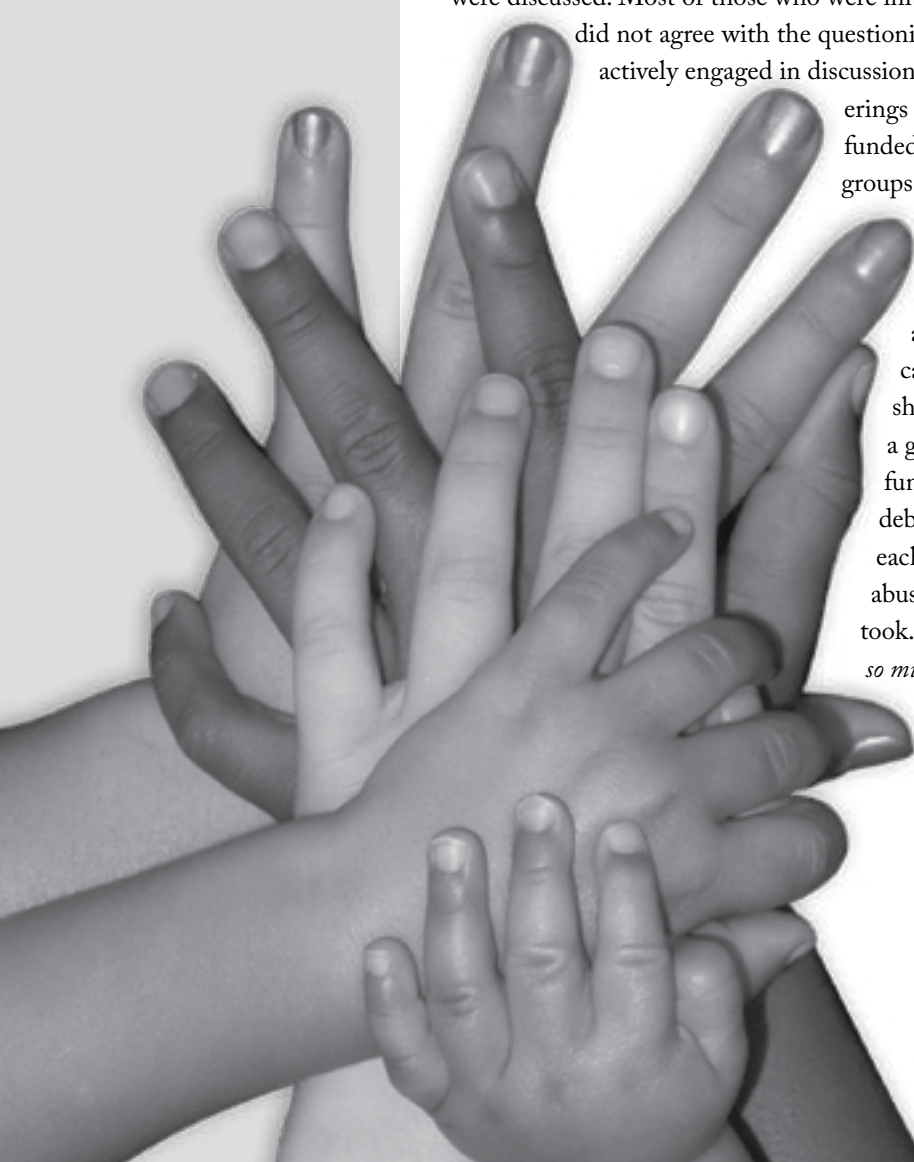
*The guidelines of the Supervised Visitation Program prompted the question of whether the language of neutrality promotes the new goals of serving families with a history of domestic violence.*⁶ OVW funding introduced a shift to a broader responsibility in addressing the reality of domestic violence and related forms of abuse and thus stimulated critical self-reflection in two key areas: a) the safety implications of claiming neutrality in all aspects of programming and b) the implications of prioritizing children's safety over that of adult victims.

This examination of neutrality didn't flow in a simple or uncontested way from the new funding. Many of the early discussions at conferences, roundtables, and training sessions were very difficult. Why should we question years of established practices? *At the beginning of the grant program, relatively few centers were rooted in the domestic violence movement.* The norm of providing equal protection to children and adult victims was under-represented at conferences and roundtables where the issues were discussed. Most of those who were initially drawn into the debate

did not agree with the questioning of neutrality. But they actively engaged in discussion and asked questions. Gatherings provided the opportunity for

funded programs to listen to focus groups of victims of battering using centers, read case files, talk among themselves, and interview and talk to judges and others who act on these cases. Gradually a paradigm shift started to take shape at a grassroots level. Although a funding requirement started the debate, the lessons learned from each other and from victims of abuse determined the direction it took. *A change in thinking came not so much from top down but from the realities of the lives of those who used the centers.*

6. As mentioned earlier, much of the language in visitation centers came from their history of working with child welfare systems in which the State's role was protection of children from neglectful or abusive parents.



WHAT DOES NEUTRALITY MEAN, ANYWAY?

How can good people disagree so much on the issue of neutrality? If we question the value of neutrality, does it mean we are in favor of bias? Valuing neutrality is itself not “neutral”; it is taking a stand. Visitation centers adopted a stance of neutrality “in the service of the value” of child protection. They also adopted a stance of neutrality because they mistakenly assumed that this is what is required to work effectively with the courts. But what the courts require is better understood as fairness and impartiality.

A search of definitions of neutrality turns up themes having to do with a) not favoring one side or other in a dispute and b) being indifferent.⁷ These are two very different meanings. Meanings assigned to the former include “unbiased,” “impartial and just,” and “without prejudice.”⁸ “Being indifferent,” on the other hand, means that one has no vested interest in a dispute or doesn’t align oneself with either side and doesn’t care about the outcome.

This “not caring about” or “being indifferent to” the outcome contrasts sharply with the judicial system’s commitment to justice in both process and outcome. For the courts, impartiality is required in the service of justice. It is required not because judges don’t care but because they do—about justice. Impartiality is the mandate to not prefer one party involved in a judicial process over another—to not discriminate. Judges may not favor any party or witness before the bench and must vigilantly assure that they harbor no bias based on the personal characteristics or litigation posture of any party. Judicial demeanor should reflect impartiality such that both sides in a dispute are confident that they are respected and that the court will provide the opportunity to be heard.

The judicial system is neither indifferent nor passive regarding the outcome; in fact, the opposite is true. It is engaged in producing an outcome. Judges are expected to come to a conflict “unbiased,” with an open mind, and impartial—but they are also expected to have a clear interest in a just outcome. They have an interest in fairness—fairness in process and fairness in outcome. They are not neutral in the sense of being indifferent.

7. Here is just some of what our search for definitions turned up: 1) “The state or policy of being neutral, especially nonparticipation in war.” The American Heritage Dictionary of the English Language, 4th ed. (Houghton Mifflin Co., 2000); 2) “Tolerance attributable to a lack of involvement (syn: disinterest).” WordNet 2.1 (Princeton University, 2007); 3) “The state or quality of being neutral; the condition of being unengaged in contests between others; state of taking no part on either side, indifference.” Webster’s Revised Unabridged Dictionary, 1913 edition; 4) “The quality or state of being neutral; especially: refusal to take part in a war between other powers.” Merriam-Webster Unabridged Dictionary.

8. We would like to thank Barbara J. Hart and several of her judicial colleagues who helped us clarify our thinking on the meaning of neutrality and impartiality with respect to the operations of the courts and the justice system. We have not done their thoughtful insights justice here. Given the subtlety of some of the judicial considerations, we must acknowledge that any mistakes in interpretation are ours.

Judges are obligated to act to achieve the best interests of a child in custody or parenting time cases; to treat the child-abusing parent in a manner that protects the abused child and her/his siblings and that assists the non-abusing parent with resources and services to enable that parent to protect the abused child; to award a protection order to a party should the court determine that the party has been abused/subjected to violence or stalked by the other party; to uphold the law/find a defendant guilty/impose an appropriate sentence should the court find beyond a reasonable doubt that a defendant has committed a crime articulated in relevant statutes. Further, depending on the proceeding, judges are charged with protecting the interests of one person when another person is unlawfully compromising or jeopardizing the interests of that person. Judges may also be responsible for vindicating the interests of the state or upholding public policy.⁹

In this sense, judges may be impartial, but they and the courts are not neutral in the multiple meanings of the word.

While fairness and impartiality may sometimes be equated with neutrality, these constructs differ significantly, and confusing them harms the work of visitation centers in that it can undermine their ability to protect victims of violence. Neutrality's connotation of "indifference to outcome" makes it a troubling guide for the work of centers. Not surprisingly, a search of judicial canons reveals many more charges to judges to be fair and impartial than to be neutral.

9. E-mail correspondence from Barbara J. Hart.



FRAMING INTERESTS IN CENTERS' WORK: BRINGING IN VICTIMS AND CHILDREN

Historically, the adoption of neutrality was considered necessary to protect children from harm by a parent or parents. More recently, visitation centers have prioritized safety for victims of violence and abuse, have come to an understanding that the welfare of children and adult victims are interconnected, and have expanded the meaning of protection. The difference between the older and newer responsibilities of centers' work disappears when viewed in the context of the larger social issue that so often brings children to them in the first place: the violence by a specific member of a family against those in that family who have less power and strength. Visitation centers seek to intervene in that violence by offering protection to victims of ongoing abuse. Looked at this way, then of course we are not "disengaged," "nonaligned," nor "indifferent." We are on the side against violence and on the side of protecting victims.

Another way of framing this discussion is that we are maintaining the tradition of separating people and behavior. Thus we may "choose" one side over the other, not with respect to an individual, but with respect to behavior. *When we advocate, meaning to "stand on the side of" or "be a voice for," we don't so much advocate for individuals as we advocate for victims' safety.*¹⁰

Many children who have lived with violence come to visitation centers cloaked in it. They may display no bruises, but its traces are inscribed in their bodies, minds, dreams, and fears. In the broad sense, these children are not situated in neutral space; violence and society's response to it have permeated their experience and re-ordered their lives. They are situated not in a neutral world, but in an everyday life shaped by assault, coercion, and intimidation.

We risk failing children if our interventions are wrapped in claims of "neutrality" that protect us from facing the ugly and complex realities of violence in their lives and those of their mothers.¹¹ Visitation centers have never been neutral. If a parent has abused a child, the center is "on the side of" the child. No one talks of staying neutral in that "conflict."

10. "Visitation centers can serve as a gateway through which needed services can be more readily accessed by child(ren) and adult victims who may not be aware of additional services available in the community. However, it should be understood that visitation centers do not advocate for, or speak on behalf of, adult victims of domestic violence or serve as domestic violence advocates within the overall scope of the visitation center. Rather, visitation centers can work with the community collaborative to ensure that child(ren) and adult victims have direct access to trained domestic violence advocates and culturally appropriate resources available to assist them in securing a range of supportive services." U.S. Department of Justice, Office on Violence Against Women, Safe Havens: Supervised Visitation and Safe Exchange Grant Program Guiding Principles, October 2007.

11. "Mothers" used here in reference to battered women.



This dilemma was posed to a group of 65 workers from more than 20 visitation centers:¹²

A center worker is monitoring a visit between a man and his 12-year-old daughter, Bria. He was charged with sexually abusing her over a seven-month period when she was 10. He was arrested but not convicted and eventually ordered by child protection court to have no contact with her until he had completed several treatment programs.

He has completed two of the programs and now wanted visits with Bria, who reluctantly agrees to see him. The court has ordered supervised visits at your center. Jenny, Bria's 9-year-old sister, also comes to visits. You suspect that Bria is coming only to protect Jenny because Bria rarely talks to her father and she watches every move he makes around her sister. He begins to make claims that his ex-wife has poisoned Bria's mind against him. He wants to talk to her about this with you there to help her open up. Bria seems very upset at the idea of meeting with him but agrees to do so by simply nodding yes.

Participants were asked to raise their hand if they would use the phrase "conflict between the father and the child" to describe the dynamic that exists between Bria and her father. Not one hand was raised. A second question was put to the group: "Are you neutral in the conflict between Bria and her father?" Again no hands were raised. Finally, participants were asked how many of them would take some kind of action either to prevent or reconsider the meeting between Bria and her father. Most hands went up.

In cases like these there is very little disagreement about the role of the center staff to stand by children, acting on their behalf when necessary. Thus neutrality in the provision of services is not a requirement of visitation centers. *Why, then, have so many centers committed themselves to neutrality, thereby constraining their ability to protect adults from each other?*

The debates about neutrality are embedded in a wider context about which neither visitation centers nor communities may claim to be neutral: that of domestic violence. We cannot be indifferent and we cannot refuse to take sides against the act of battering. We are ethically obliged to take a stand against violence. Neutrality is not an option. When domestic violence brings adults to visitation centers, the primary conflict framing our interventions is not the "conflict" between a man and a woman. It is the conflict between the social values holding that people have a right to live violence-free and the actions of batterers who defy those values and violate those rights. An assault is not just on a victim's body; it is on the mores of society. To live free of violence is a right and as such, it cannot be made secondary to a center's policies on neutrality. Visitation centers must not be neutral about domestic violence and the welfare of victims.

12. "Understanding the Role of Neutrality in Supervised Visitation" (Minnesota Chapter of SVN meeting, St. Louis Park, MN, February 15, 2007).



part 2

Neither Agents nor Arms of the Courts,
but Human Service Providers

INTRODUCTION

Many neutrality practices adopted by visitation centers, such as not offering victim-service information, referrals to attorneys, or assistance in obtaining a protection order, stem from a fear that the courts will think center staff are biased or from a belief that offering information about services or legal options represents “advocacy.”¹³ Some centers and their legal consultants argue that the charge of neutrality prohibits them from tailoring services to proactively secure the safety of one parent from the other’s violence. This doesn’t mean that such centers simply look away when an abuser is making attempts to intimidate or harm a former partner. However, a center unconstrained by a charge of neutrality is able to “proactively secure safety” by trying to establish who needs protection from whom and then working to determine how it can best be provided.¹⁴

Because impartiality and fairness, rather than neutrality, better describe the courts’ demeanor and because judges are neither neutral about nor indifferent to victims’ welfare, they do not regard the provision of victim-service information or agency referral or assistance in obtaining protection as indicators of bias. Indeed, it is hard to imagine that a judge would be anything but perplexed and dismayed to learn that visitation centers feel that on the courts’ account, they are constrained from giving victims helpful information or cannot be helpful in providing access to services.

ASSUMPTIONS ABOUT WHAT THE COURTS WANT

It is the mistaken belief that a center is somehow being faithful to the courts that has lent neutrality an apparently solid grounding.¹⁵ While much of this paper attends to clarifying centers’ understanding of courts’ expectations about impartiality, fairness, and neutrality, courts must also do their part. They need to engage with visitation centers in discussions about neutrality. The issue cannot be adequately addressed by conversations which are largely internal to centers. Not surprisingly, the Supervised Visitation Program emphasized the need for new collaborative relationships with the courts as a condition of funding.¹⁶ If the commitment to neutrality is rooted in centers’ relationships to the courts, those relationships must be examined.

The National Council of Juvenile and Family Court Judges (NCJFCJ) was part of a team of technical assistance providers funded by OVW to help define the Supervised Visitation Program by organizing trainings and dialogues on just these issues. In 2004 and 2005, NCJFCJ led a series of discussions on the Supervised Visitation Program’s requirement of formalizing new collaborations between community-based visitation centers and the courts.

13. We use these examples because they were all noted during discussions as practices that some centers felt were not allowed under the principle of being neutral in the “conflict” between the parents.

14. See concrete examples from roundtable discussions in Part Three of this paper.

15. Nat Stern and Karen Oehme, “Defending Neutrality in Supervised Visitation to Preserve a Crucial Family Court Service,” 35 *Southwestern University Law Review* 37 (2005).

16. A few centers funded by the Supervised Visitation Program are actually administered by the court; they offer a model of practice that makes distinctions between “neutrality” and “fairness.”

Those discussions made clear that it was the historic understanding of centers that their relationship to the court was not one of advising or influencing but of simply acting as a set of eyes and ears—and thus centers by their actions should not attempt to influence the outcome of a case. Many centers believed that working with family members in ways that influenced the case was in fact not being neutral. Surely proactively working with abusive fathers to change their behavior or with battered women to learn how to safely co- or parallel-parent with their abuser changes the conditions the court considers in awarding custody and parenting time. Yet the courts more than welcome anyone helping families get to a new, less hostile, less abusive, less aggressive, less dangerous place in which to co-parent.

What also became clear was that many judges did not share centers' understanding of what the courts expected. Overall, there was considerable ambiguity and confusion among center staff and among different centers about their relationship to the courts and by implication, though seldom discussed, centers' responsibilities towards their communities.¹⁷

In one of the roundtable discussions, workers talked about their relationships with fathers at the center. Naomi told the story of a short encounter she'd had with a father after a visit.¹⁸

I asked the father how he felt about the time with his children. He blew me off and said, "Fine, fine, it went OK," but I ended up pressing him a bit: "I thought you may have felt bad when Jason said he hated coming here." Then the guy opened up, he was fighting back tears, saying he spends all morning just waiting for noon to come and he has all these ideas about what it's going to be like to spend time with his sons but it's not really ever like that.

So I said to him, "Well, you were all here together today and each week seems to have gotten less tense—give it all time." He smiled and thanked me and said he appreciated me taking the time. I ended up really feeling bad that he appreciated me taking all of 90 seconds. I realized I never just check in with the men like that. I've always thought I shouldn't. It's not my role. I'm here to do a specific job; to monitor visits.

17. In some cases the issue of neutrality had not been much discussed in centers and was an ad-hoc condition.

18. All names have been changed to protect individual privacy.



As Naomi started to question her understanding of the scope of her job, she was clearly warned by her colleagues from other centers that she was risking losing her credibility with the court. Again, the opposition to her actions offering support to a father who cared for his child came by invoking the concept of neutrality. Some center workers thought it could lead to a father getting the wrong idea about why he is there and what the center's role is. They saw that role as monitoring the way he interacts with his children, not changing that interaction through intervention, and stated that doing so was a violation of the non-partisan role of the center.

Their argument was framed by reference to “the court case.” If the center is not also helping the mother bolster her position in the dispute for custody, they reasoned, actions such as Naomi's favor one party over the other. Interestingly, this argument was most vigorously made by battered women's advocates at the meetings.

The discussions that ensued contained dozens of examples of center workers seeing family members needing help and finding instead respectful and friendly but distant workers hovering over the visit without addressing the needs of those in the room.

Over and over we were confronted with the unwelcome realization that the court proceedings between the couple (and the assumption that they required neutrality from the center) had become the defining context in which all interactions in visitation centers take place, and hence the basis of policy and practice. The possibility of working with parents in ways that may reduce the likelihood of future violence is sidelined in favor of voluntarily shaping centers to be little more than out-of-courtroom “eyes and ears for the bench”—eyes and ears for which the bench may be grateful but does not require their provision to be the main role of the center.

Many visitation center staff noted that given the bigger picture of what was going on between the parents, what they were seeing and reporting to the court was limited in its accuracy and helpfulness to the court. Centers knew that their inability to put the case into the context of domestic violence and their practice of writing stripped-down descriptions of what they saw (“Dad played Monopoly with Jason and let him win,” “Dad hugged Sarah and she seemed pleased,” “Dad brought a number of age-appropriate toys to his visit”) often gave the court an incomplete and in many cases an inaccurate picture of the danger present in a case. After all, few people used the center because fathers didn't know how to play with their children. The response of almost every center caught in this unintended role of misinforming the court was, “We make a note in our reports that this is a false environment.”

These discussions revealed the need to clarify that with a few exceptions, centers are not arms or agents of the courts. Most centers are human service agencies with goals and roles that are distinct from those of the courts. Their work intersects with that of the courts in their missions, tasks, and interventions with families, but they are not doing the same thing. The principles that organize the work of the courts and those that organize the work of centers are not nor should they be identical. Their intended societal functions are quite distinct.¹⁹

Visitation centers, like many human service endeavors, are well positioned to help people change the conditions that cause suffering and harm in their lives. In cases of domestic violence, they offer a safe place for victims, a service that is useful for individuals, agencies, and, of course, family court judges. Although these centers are designed to offer safe access for exchange, few see this as the sole goal.²⁰

The vast majority of non-custodial parents using these centers eventually have unsupervised access to their children. No other agency has an opportunity equivalent to that of visitation centers to work with abusive parents to ensure that, in the long run, children can have a relationship with both of their parents that is not physically, sexually, or emotionally harmful. Similarly, centers can work with adult victims of abuse to strengthen their capacity for long term co- or parallel-parenting with their abusers in ways that keep them and their children safe.

Many centers see their role in part as facilitating long-term solutions to the parenting dilemmas of adult victims of abuse. For example, some fathers have never fed their infants or changed their diapers or taken care of them for extended periods. They don't know their nap schedules or bedtime routines. When a mother knows her abuser cannot provide proper care, how can she turn her infant over to him simply because he has a legal right to access to his daughter?

Centers that see themselves primarily as a set of eyes and ears for the court will likely resist the notion that they have a role in helping resolve a dilemma like this for her or him or the children. However, many centers see their role as providing protection during the separation process, and helping both parents develop the possibility of permanent positive co-parenting without outside intervention. The way centers understand their role in relation to the courts matters. So too does the way courts see visitation centers. *Who then sets the agenda for the work of the center? The courts? The abusers? The victims? Are centers there to keep people safe for a few hours a week? Or do they play a larger role in helping practitioners make the right choices in their interventions and family members to get through the of separation process in which violence is a constant threat?*

19. There are exceptions: some centers are physical sites for exchange and visitation that are primarily or exclusively extensions of family courts. They are not ideally located as visitation centers. They do not function as human service agencies in the same way agencies that are separate from the courts may. These court-extension child exchange sites also encounter many of the challenges we will discuss below. And they, too, have found themselves reflecting on what neutrality means in their setting.

20. In fact, if it was, visits could be held in settings similar to maximum security prisons.

Protecting victims involves more than stopping the violence. It means working for safety and undoing the harm violence does. Providing parents with access to resources and facilitating positive family relationships is part of working for safety. Centers must clarify what role they play in the community or they will not be effective even in their primary role. Supervised visitation centers don't all share a common mission statement. Some are independent agencies organized for the sole purpose of offering a single service; others are located in larger human service or court agencies. Centers are housed in mental health centers, domestic violence agencies, YWCAs, private counseling agencies, and even court administrators' offices. Naturally there are differences in how these centers see their work.

During the first five years of the Supervised Visitation Program, center staff talked extensively about the needs centers could and should address. Some are simple. A child may need to talk to her father about what happened the night he was arrested. Less simple, however, is figuring out the center's role in meeting that need. Center staff often find that working with recently separated parents to set up visit schedules and to accommodate each parent is often very difficult. Hostility, feelings of betrayal, a sense of manipulation, and a desire for revenge all leak through in a phone call to merely reschedule a visit.

As previously mentioned, some fathers have spent so little time with their children that they just don't know how to do basic caretaking. Other parents need help just getting themselves or their children to and from visits. Some non-custodial battered women visiting their children face such emotionally charged encounters steeped in their guilt and their children's sense of abandonment that both mothers and children leave visits shaken to the core. Other mothers struggle with how to talk to their children about their father, how to explain what happened without hurting them. And some mothers don't struggle enough with that dilemma. Parents may be seeing their child for the first time in months or years; fathers may be seeing their child for the first time ever.²¹

Many parents are unaware of the extent to which their hostility toward their former partner—and their perhaps unconscious use of the children to cause their partner pain—is harming their children. Visiting parents may not know how to discipline a child without intimidation and feel so constrained by the center's rules that they either quit coming or give up exerting any parental authority during visits. Some children need to proceed very slowly in their relationship with the visiting parent, while others want to see their parent outside of the center's walls as quickly as possible.

21. All of these examples come from observations of cases in visitation centers.

Most centers do not limit their interactions to arranging and observing safe visits but deal with many other issues as well, frequently working with parents over a number of months. There is little agreement in the field about how, when, and even if center staff should address the very real and complex experiences of the children and parents using their center. During the discussions within the Supervised Visitation Program, there was considerable debate about the missions and purposes of centers. No one argued that all centers should share common missions. But there was concern that the field not become so narrowly defined by the perceived requirement of “neutrality” that centers were precluded from engaging in more far-reaching community-based efforts and thus reduced to little more than monitoring programs. At the same time, some centers organized specifically for this narrowly defined task did not want to be compelled to join those who chose to have a much larger role in families’ lives.

MAKING THE DIFFERENT UNDERSTANDINGS OF CENTERS’ ROLES CLEARER: THE MICHIGAN STUDY

22. As part of the Safe Havens: Supervised Visitation and Safe Exchange – Demonstration Initiative, funded by the Office on Violence Against Women in 2002, four demonstration sites (State of Michigan, The Bay Area, California, City of Chicago, IL, and City of Kent, Washington) undertook detailed investigations of their practices through the lens of safety for adult and child victims of domestic violence. We discuss the results of the State of Michigan’s assessment in this paper because the focus of this study was to analyze the tensions visitation centers experience related to their role in cases of domestic violence and their commitment to neutrality (see Part Three of this paper for more discussion). Each of the investigations conducted by the demonstration sites addressed and uncovered further nuances in this tension. For more information, see the final reports for each demonstration site available at www.praxisinternational.org.

The various understandings of centers’ roles emerged from an innovative study of the working of four centers initiated in Michigan in 2005.²² During the Michigan investigation, a multi-site team conducted interviews to determine the expectations of centers held by the courts, families, and staff in related human service agencies. The goal was to help the four centers in question define their own missions and roles. More than fifty interviews and observations of related intervening agencies were conducted. Mothers and fathers using the centers, judges, court administrators, guardians ad litem, therapists, divorce attorneys, center staff, board members and volunteers, advocates, probation officers, child protection workers, tribal leaders, and police were all included in these discussions.

A talk given by Shelia Hankins, project director of the Michigan demonstration site, summarized part of the team’s final report:

We all agree that for the centers funded within our emerging network we can not limit our capacity to help families by only thinking of safety as our obligation for the two hours of the visit. All of our work with other agencies and the families we serve must also have in mind the safety needs that come when victims of ongoing abuse separate from their abusers. The two plus years surrounding that decision and action heighten many abusers’ willingness to escalate in the severity, frequency, and types of abuse. It is during this time period that abusers are most likely to enlist the aid of community agencies and state institutions in their efforts to control and punish.

Finally, we must do our work in a way that recognizes that formal supervision is almost always a temporary arrangement. These parents will eventually leave our centers and courtrooms and settle into some arrangement for co-parenting for the next twenty years. We can lay the foundation for how that is done in our brief but important time with parents. So we need to think of our work in terms of two hours, two years, and twenty years.²³

The Michigan report opened a new debate in the network of communities funded by the Supervised Visitation Program. Many centers reject the challenges of working with parents as being outside a visitation center's mandate and ill-advised on the grounds that a) such work is the sphere of professional therapists;²⁴ b) helping abusers establish better relationships with their children serves to enhance their bid for unsupervised visitation or even custody; and c) involvement with parents compromises neutrality. Others see helping mothers, fathers, and children to redefine and re-establish new non-destructive relations as crucial. All centers care about the safety of those who use them. It is their understanding of how best to do their work, not their commitment to victim safety, which differentiates them.

An exchange between two center staff persons at one of the roundtable discussions expresses these differences. The first recalled a particular case:

Because this mother was so young and she had no income, we found ourselves helping her out a lot. For example, she came to the center with her child in an infant seat that the little girl was busting out of. She didn't have any money to buy a seat and was trying to get the father to get one from his brother. The father said he asked his brother but it was gone. She was so angry and crying so I dug around in our donations room and found a car seat for her.

The worker was going on to make a point about helping clients when she was interrupted by a center worker from another city:

You can't do that. That makes you appear biased toward her. That goes against neutrality. You aren't treating him and her equally unless you give him a resource of equal value, and that opens a whole can of worms. We don't allow staff to give either parent anything.

The facilitator asked for a show of hands. How many, she asked, don't allow this kind of help because it shows a bias? Half the hands in the room shot up. Over the course of the following weeks and a number of similar discussions, it became clear that the notion of neutrality had come to act as a constraining factor in center after center. What had started as a commitment to fairness had evolved into a barrier that limited centers' ability to operate in dynamic and complex ways. Not all centers equated being neutral with treating people the same even when their circumstances were not the same, but this belief was a strong, almost intractable position of many center staff.

23. Safe Havens: Supervised Visitation and Safe Exchange Demonstration Initiative All Sites Meeting (meeting, San Francisco, CA, February 13, 2004).

24. This issue is not addressed in this paper.

The Michigan team discovered that fear of compromising neutrality created continual dilemmas for center staff. It led people to question whether neutrality had become a goal in itself rather than a means for guiding the work of protection and safety. This realization prompted many centers to become very precise as to when they use the word “neutral” to describe its operating value and when they use other words such as “fair” and “impartial.”

Neutrality has a place in visitation centers, and there is substantial agreement in the supervised visitation field that certain concrete practices of neutrality are a good thing and part of fair and competent work. It is widely agreed, for example, that 1) centers should not have financial ties to either party using the center; 2) center staff should not be allied with or have familial ties to parties using the center;²⁵ 3) center staff should not craft reports to influence the court toward a certain outcome or direction when deciding on custody but should report objectively, making visible for the court all safety concerns the center has regarding the protection of all family members; and 4) centers should not provide direct advocacy for victims of abuse using the center.²⁶ Disagreement arises, however, when the concept of neutrality that is appropriate for particular situations is imposed on all aspects of center work. Altering the scope of commitment to neutrality allows centers the freedom to work toward ensuring victim safety and children’s well-being.

25. Of course, in small and tribal communities this is not always possible. The center may be the only service available for a family who has a relative working there. So centers must establish clear policies about how to handle cases in which relatives of center staff are in need of center services.

26. Although women’s shelters see their responsibility as advocating for women who use the shelter, visitation centers do not actively represent or advocate for either parent in issues of child custody or divorce, which frames the workings of the center, but are not part of its mandate. Center staff and volunteers should not act in an advocacy capacity for either adult party in any legal proceeding against each other.



WE NEED TO TALK ABOUT OUR RELATIONSHIP: HOW DO COURTS SEE CENTERS?

The way visitation centers understand their role in relationship to the courts matters, as does the way courts see the centers. But few centers have established a strong enough relationship with the courts to engage in conversations regarding the questions of roles and obligations. As skilled and experienced service providers, visitation centers can offer much useful advice and direction to the courts. The NCJFCJ-led discussions helped open up those conversations.²⁷

Discussions with judges made apparent that they did not necessarily see the role of visitation centers as supporting the courts through the adoption of neutrality. They suggested that it may instead be far more useful for centers to see themselves as offering the courts options and alternatives in terms of using community resources to help them in their various roles as protectors and arbitrators of civil disagreements. Visitation centers have much to offer the courts as they make difficult decisions in the light of imperfect knowledge and difficult situations.

Minnesota Sixth Judicial District Court Judge Robert Campbell describes what centers have to offer the bench. He asserts that community-based groups such as visitation centers, batterers programs, and chemical dependency programs shouldn't be overly beholden to the courts that provide them with their clients. He encourages open negotiation with chief judges and cautions community programs against "giving up who you are" because "the courts need you as much as you need them."

Judges are desperate people. We sit on a bench, draped in medieval garb, set up higher than the people seeking justice, listening to their accounts through their attorneys, reading reports by professionals, contemplating two very different, impossible-to-reconcile versions of lives that have gone very wrong. We don't know what the truth is, so we send them someplace; we buy time hoping things will change or at least become clear. We send them to whatever seems to fit best. In most cases we don't really have a menu to choose from. But it's important that you define what you do and how you do it based on what the people coming to you for help need. Don't let the court with all of its obligations and prescribed ways of doing things undermine what you need to do to help people change their lives.²⁸

While Judge Campbell looks to visitation centers for options and information—sometimes just to buy time—he also cautions centers to keep a distance from the court's roles and processes that undermine centers' human service work. He counters other commentators who warn centers that if they don't present themselves as completely neutral in a "conflict" between parents, they risk losing the support of the courts

27. "Supervised Visitation and the Legal Community: Moving the Dialogue Forward" (national conference, Chicago, IL, April 27 – 29, 2004); "Supervised Visitation, Domestic Violence, and Legal Communities: Building Strong Collaborations for Change" (national conference, San Francisco, CA, August 10 – 11, 2005); "Supervised Visitation Programs and the Courts: Envisioning Solutions for Practice" (Safe Havens Demonstration Initiative Think Tank, San Francisco, CA, October 20 – 21, 2005).

28. Judge Robert Campbell, "Rural Networking Conference on Stopping Violence Against Women" (keynote address, Duluth, MN, November 13 – 15, 2000).

and will find themselves outside the mainstream of acceptable practice, having lost the source of their referrals and thus losing the opportunity to help at all.²⁹

It is much easier to reach alternative courses of action when positions have not yet been clearly adopted. Unfortunately, this is not the case in the neutrality debate. The largest national organization of supervised visitation centers, the Supervised Visitation Network (SVN), has adopted model standards and practice goals that fully embrace neutrality as a guiding principle in the provision of all services in centers. In doing so it states, “Neutral/neutrality as used in the context of supervised visitation means maintaining an unbiased, objective, and balanced environment, and when providing the service, not taking a position between the parents in providing the service. Providing the service in a neutral manner is intended to ensure respect for all individuals in their capacity as parents and to protect children who are attempting to remain in contact with their parents. Being neutral does not mean providers disregard behaviors such as abuse or violence of any kind.”³⁰ Many state groups of SVN’s membership organizations are approaching their state legislatures asking to link state funding to these standards.³¹

Such efforts to standardize practice are helpful in many ways. SVN has been an incredibly influential organization in ensuring that centers centralize a commitment to safety. But they have also encoded in the discourse—and therefore practice—of most centers a commitment to not engage in the “conflict” between the parents. As a result, centers fail to use their potential to protect adult victims of abuse, who in most cases are mothers whose abusers continue to batter and stalk them.

29. See footnote 15.

30. The Supervised Visitation Network Standards for Supervised Visitation Practice, May 2006.

31. In Minnesota, for example, both House Bill 1864 and Senate Bill 1973 for the 2007-08 legislative session, regarding refunding visitation centers, have a requirement that contains the clause, “The commissioner shall establish grant evaluation and award criteria for the program and ensure that grant recipients operate in a manner consistent with standards and guidelines promulgated by the Supervised Visitation Network.”



Centers are most likely to be first used during the separation process when the likelihood of continuing and even escalating violence is quite high.³² Sometimes the protection of the center is needed for a long time, but the average length of involvement is months, not years. When families first come to a center, they are usually involved in one or more legal proceedings concerning custody and visitation. In many ways, it is the adversarial framing of court cases that produces the need for centers to think of all interactions as requiring neutrality, or what we have argued should be termed “impartiality.”

Impartiality is a deliberate and useful strategy courts use to further the pursuit of a just decision. Although neutrality may serve the goal of the courts, it does not serve the goal of human service delivery nearly as well. Courts make life-altering decisions. The court decision-making process starts with each party presenting a “case.” In family courts, this becomes a “his-and-hers” scenario. The professionals or advocates working with “him” and “her” turn complex stories into a familiar script of him against her and her against him. That is the nature of the court process. Because the situation is scripted to be adversarial, the court then looks to people with no vested interest in the outcome of the case to offer it insights and information.

The court wants to think that the information it is getting is reliable and independent, not embedded in a bias for or against a party. It is here, in the context of court decision making, that a call to neutrality (in the sense of impartiality) is best placed. Neither judges nor anyone else making decisions or providing information as part of the decision-making process should have an interest (financial, personal, political, ideological, or otherwise) in the outcome.

Yet it can also be argued that our legal system’s process for determining custody and visitation arrangements offers many ways for a batterer to use the legal system as a continuation of the abuse. Almost anything that a third-party observes can be used in court by one parent claiming to be more fit than the other. This legal conflict presents a service-delivery dilemma for visitation centers because it transforms everything a center does into potential ammunition.

However, in a paradoxical way “solutions” often help produce the very problems they are supposed to be solving. By adopting the stance of neutrality in all circumstances because the courts require unbiased information, the center is actually taking a position. When centers make the statement that they are “neutral” in the “conflict” between the parents, to what exactly are they referring? The legal proceedings to determine the conditions of the couple’s separation, or the violence? If it is the former,

32. As indicated by the results of the Safe Havens: Supervised Visitation and Safe Exchange Grantee Questionnaire distributed in 2003 and 2004 to Supervised Visitation Grantees.

the better characterization of their role is to be “fair and impartial” in their interactions with the parents who use their services and to not by their actions bias the workings of the courts. It is hard to disagree with the assertion that centers don’t want to bias the courts or treat people unfairly.

To avoid such a position, the “conflict” in the court case must be distinguished from the “conflict” of the violence. Centers that fail to make this distinction are unintentionally helping to reproduce the same social conditions that have led so many children to their doors. Working in the best interests of present and future generations of children means taking a strong stand against domestic violence and the strategies of power and control with which it is typically associated. This requires interveners to treat the abuser differently than they do the victim. It necessitates dropping notions of treating parents the same when they are not in the same position in relation to violence.

Centers that have taken on the responsibility of offering protective services for children and adult victims of ongoing abuse undermine that obligation when they purport to be neutral in the “conflict” between the parents. In such cases neutrality is not neutral. It is biased (albeit unintentionally so) against the obligation to protect adult victims.

SUMMARY

Conflict over neutrality is in large part rooted in centers’ understanding of their relationship with the courts, which shapes the services centers provide. Judges do not necessarily share this understanding; centers need to revisit and clarify their relationships with the courts and with their communities. They are neither arms nor agents of the courts but human service providers. The adversarial nature of court cases permeates the working of visitation centers, thereby turning some of their “solutions” to violence—“remaining neutral”—into new problems of violence for victims. The issue of neutrality in visitation centers can be resolved if the “conflict” in the court case and the “conflict” of domestic violence are separated analytically. Centers cannot be neutral about violence and victim safety.



part 3

Safety Implications of Some Current Practices and Recommended Changes



Facts, not philosophy, have led some centers to reject neutrality and the rhetoric of “children first.” Certainly centers had lessened the risk of harm to children during visits at centers and child exchanges. But they had been less successful in reducing the risks to mothers who were being battered. All of this was exposed in the formative years of the Supervised Visitation Program, as focus groups with battered women, a national research project, examinations of case files, and honest discussions with staff from dozens of centers revealed. Equally worrisome, case file reviews and interviews with center workers exposed a disturbing pattern of misleading information being provided to the courts, which created a systemic bias directly traceable to centers’ adoption of a stance of neutrality (rather than impartiality) concerning the abuser³³ and, by default, concerning the realities of abuse.

Nor could centers console themselves with the belief that the costs to mothers’ safety were in the service of children’s welfare—of “putting kids first.” A paradoxical situation was observed. It appeared that it was the centers that were not hampered by the obligation to be neutral in the “conflict” between the parents, but instead sought to be fair and objective, that were better positioned to provide families, mothers, fathers, and children with resources, supports, and referrals necessary to help ensure the long-term physical, emotional, and sexual safety and well-being of children and their parents. It is likely that these centers were providing more opportunities for abusers to change.

TREATING CUSTODIAL AND NON-CUSTODIAL PARENTS THE SAME

Visitation centers routinely distinguish between custodial and non-custodial parents. Rules are established that are applied to all custodial parents alike, and different procedures apply to all non-custodial parents. This practice is very common in bureaucracies. Agencies and institutions that process large numbers of cases engage in practices that homogenize clients (a kind of bureaucratically “making them all the same”) as part of the process through which workers’ responses to cases can be standardized. This is popularly called the “one-size-fits-all” approach. That is, agencies seek to treat similar cases similarly.³⁴ But although similar in some respects (e.g., a group of custodial parents or a group of non-custodial parents), there may also be very significant differences within a group (e.g., some are victims and some are abusers).

Centers that are neutral in the “conflict” between the parents do make adjustments in their services based on who is in immediate danger; they

33. This notion was reflected through 1) presentations on the National Evaluation of the Safe Havens: Supervised Visitation and Safe Exchange – Demonstration Initiative by Daniel G. Saunders, Ph.D., “National Steering Committee Meeting” (Power Point presentation, Miami, FL, February 3 – 4, 2005); and “Project Directors’ Meeting” (Power Point presentation, San Diego, CA, February 28, 2005); and 2) focus groups and interviews with battered women who had used supervised visitation centers held during the Safety and Accountability Audits conducted at the Safe Havens Demonstration Sites. For more information, see the final reports for each demonstration site available at www.praxisinternational.org.

34. One can see that the “standardization” approach is very useful for processing a large number of relatively simple cases or applications. But human services are more complex.

should not be characterized as overly naive or callous about the safety needs of adult victims. The common practice in centers has been to assume responsibility for preventing parents from having contact with each other and keeping them from using their children to communicate with each other. To do this it is not necessary for centers to make significant distinctions between an abusive adult and the adult victim of that abuse. They are able to stay neutral in the “conflict” by giving neither party the opportunity to harm the other.

Neutral centers group (or categorize) and respond to custodial parents as though they were all the same, a commonality with shared experiences, even when the category includes abusers. In some centers as many as 20% of custodial parents are batterers. And many non-custodial parents are victims. With increasing numbers of battered women losing custody to their abusers, visitation centers find their allegiance to the notion of remaining neutral contradicting their commitment to safety.

DISTINGUISHING BETWEEN VICTIMS AND ABUSERS

Centers typically stagger parents’ arrival times. The non-custodial parent arrives fifteen minutes before the scheduled visit so that there is no parental contact outside the center. Once the non-custodial parent is safely under the watchful eye of center staff, the custodial parent arrives with the children and transfers the children to the staff person who brings them into the room where the non-custodial parent is waiting. This procedure is thought to prevent altercations in the parking lot or entry to the building by preventing non-custodial parents from lurking around outside as the custodial parent arrives with the children.

A panel of battered mothers speaking at a conference for visitation center staff and court partners ³⁵ pointed out that this neutrality-based practice of not distinguishing between victims and abusers compromised safety. Three of the seven panelists used the visitation center as the non-custodial parent because each had permanently lost custody of her children to her abuser. Each of the non-custodial mothers reported occasions on which their abusers had come early and were waiting for them when they arrived for their visits. Although none of the women were assaulted in these encounters, all of them were subjected to intimidation and harassment. Most of the centers represented at the conference had a procedure for parents’ arrivals. They were understandably distressed to realize that their neutrality practices could create the safety risk that the panel had exposed.

35. “Bringing it Together: A Critical Dialogue” (national conference, Minneapolis, MN, August 11 – 13, 2004).



NEUTRALITY PRACTICES AND PROBLEMS OF GETTING ENOUGH INFORMATION TO ENSURE SAFETY

Discussion about this safety problem led to the recognition of several more safety issues associated with neutrality. The problems start at the intake process. Because of the commitment to neutrality, centers did not use the intake or court referral process to determine (and record) if there had been a history of battering. Certainly all centers asked about protection orders and convictions, but few knew or sought out information on the severity of the abuse and whether it was ongoing. During the discussions among centers, a center manager recommended that in the future all intake processes should seek enough information to reveal whether and how an adult victim was vulnerable to abuse, as it did in the cases of children at risk. This suggestion was opposed by a director from a different center:

How am I to know which parent's version to believe? I am taking referrals from the court to set up a safe visit. It's not my job to decide which parent needs protection from the other. In fact in most cases I don't know why the court is sending a family to our center.

Another participant added, "I've got a better one—I'd say over half of the time I don't know which court sent them to the center." Some center staff at this discussion stressed that in their view having a policy that did not treat custodial and non-custodial parents the "same" was to abandon neutrality and would put centers in conflict with the court (a position that arose from confusing "neutrality" with "impartiality").

The dilemma for center directors is real. The inclusion of adult victim safety in the new Supervised Visitation Program requirements required a fundamental shift in thinking and practice. Under Supervised Visitation Program guidelines, directors are responsible for knowing if one parent needs protection from the other and if so, who and what kind of protection. The Supervised Visitation Program's requirement that grantees collaborate with the courts means that an effective (and accurate) method of information exchange must be established. A center administrator summed up the difficulties of all centers this way:

The court in these cases is ordering an individual to the most restrictive form of parenting time, just one step away from no visitation. There must be a reason, but no one names it. It truly is like this huge elephant in the room that no one wants to name. Centers are put in the position to do what even the courts many times have not. They must name the elephant. It takes skill, knowledge, and confidence to take this step. Claiming neutrality helps centers avoid this difficult position. I don't think centers purposefully decided to adhere to neutrality in order to circumvent complicated situations. However, I do think that the benefit of maintaining neutrality is highlighted every time it is used to avoid getting involved in the perceived conflict.

The benefit mentioned above, however, refers to the efficient working of the center.³⁶ It is not a benefit to victim safety.

This discussion continued over several gatherings during a number of months. At one of them, a rather spirited debate broke out when some center staff began to explain how in light of these deliberations, they had begun to conduct their intakes differently. Several centers were now probing for information about vulnerability to violence. Others added that they had begun weekly check-ins with victims of battering to ensure that there had been no threats made outside of the center, including threats or unwanted contact between visits. One center explained the development of an intake process that allowed a number of options for victims of stalking that did not require them to come near the center.

However, the new focus on adult victims' safety violated some center workers' commitment to neutrality. One expressed the feelings of many in the room when she objected to these changes: "This is a non-starter, you're putting staff in the position of being advocates for one side in the parental conflict. We can't assume that role."

For workers like this, the goal of proactively working to protect adult victims from abuse was the equivalent of becoming an advocate and abandoning neutrality. The contention that acting to protect victims is to be partisan and therefore not "neutral" was (and is) a recurring theme in all the discussions, conferences, and debates.

36. It allows the center to avoid having to confront the messiness of domestic violence and abuse, which produce complexities and contingencies bureaucratic procedures find awkward. Neutrality is not just a philosophical problem; it is also a problem with the way bureaucracies are set up to work.

As human service agencies, many centers have found themselves positioned on a very thin tightrope between, on one hand, being a helpful human service agency reducing violence and suffering and, on the other, acting as a policing arm of the court.

NEUTRALITY PRACTICES AND DOCUMENTATION: THE CASE OF BILL

A discussion similar to that above occurred around common documentation practices that many centers saw as neutral and objective but which in practice served as anything but. Safety problems with documentation came to the surface early during the Michigan investigation as the group collected (redacted) case files and read them together. Take, for example, the case of Bill. Bill's file contained a number of documents, see below.

Bill's File

DOCUMENTS IN BILL'S FILE:

- a) An intake form which had attached to it the court order requiring Bill to use the center for all contacts with his children. Nancy, his former wife, was ordered by the protection order judge to deliver the children to the center twice a week for one-hour visits. The form had information about the three children; their doctors, medical conditions, and likes and dislikes for games and activities; contact information for each parent; the conditions of the court order; and a notation in a section headed "Reason for using the center." The notation was brief: "Fear of abduction."
- b) Two letters from other service providers, a chemical dependency program and a batterers counseling service.
- c) Eleven summary notes, one from each of Bill's visits to the center;
- d) A report to the court, which was filed after his sixth visit. Attached to that report were the summary notes from his six visits.

A separate file was kept for Nancy. It contained only the completed intake form, the same form as the one for Bill. The group read through Bill's file for about 15 minutes and then interviewed Janice, the director and primary staff person in this rural center. The consultant began asking questions for the investigative team. "Can you start by telling us about the intake form? How did you determine this is the information you need in order to work with this family?" Her answer was revealing:

It's a form we got from another visitation center. We made a few tweaks to make it fit what we needed as an agency and what funders required of us for reporting, but I guess I wouldn't say we sat down and thought about what information we need from this family to provide services. I think I would personally change it but we are also very aware of keeping things very sparse so we don't overly influence the court case.

Janice went on to describe the intake interviews with both Bill and Nancy and how she decided what to record from those discussions. She was asked to describe her intake with Nancy.

She was really scared of him. The whole incident that got him arrested was really dangerous. She left him after a really controlling relationship, especially about the children. He insisted on choosing all their clothes, their school, their social contacts. She said everyone thought he was a really involved father, but it was different than that. He was absolutely obsessed with everything about the children.

He was physically abusive to her but never to the children. She said she had only stayed in the marriage the past several years because she couldn't figure out how to leave without a huge custody battle that he might win. When his abuse got worse—she didn't say this, but it seemed as if she was talking about sexual abuse—she finally got help from her parents and left him. He was doing a lot of stalking of her type stuff, but he didn't actually have any physical contact with her.

Her mother helped with the exchanges and he had the kids every Saturday and one night a week. Then one Saturday he refused to give the kids back. Her mother called the police, and when they showed up he locked himself in the house with a gun and said he'd rather see himself and the kids dead than go through all of this.

It was a long ordeal but the police finally talked him out. She said he was arrested and charged with several things but she wasn't sure what he was convicted of. She got a protection order on behalf of the children. CPS [child protective services] got involved but once he went into chemical dependency treatment and the protection order was granted, they closed their case. She said she was really afraid of what he'll do in the future. She wanted us to be sure he couldn't leave with the children. She also said she was dragging her feet on the divorce because if she were to get custody, it may make him snap.

By “snap” Janice understood Nancy to mean Bill could abduct or kill the children. Janice was clearly concerned for Nancy and for the children’s well-being.

The team asked why none of this information was in the file on Bill and what would be the implications for Nancy or Bill or the children if this information were put in the file. Janice explained the constraints under which she worked:

I can only put objective information in the file. Otherwise I’m acting in a biased way. I only put in the file what I myself saw and observed. This information about Bill was already available to the court because the police and CPS and the criminal court were all involved.

The question opened a long discussion with the conclusion that the team needed to bring this discussion to the larger group of centers for exploration. Janice’s center’s files held almost no documentation that would indicate the level of danger Bill represented other than the cryptic note on Bill’s intake form that the reason for using the center was “fear of abduction.” Even there, Janice explained, her goal in asking about what led up to the use of the center during the intake process was simply to think about how the visits would be scheduled and what she needed to look out for in the visits. Nancy’s fear of Bill and the reasons for it remained undocumented—unrecorded except in Janice’s memory of her interview with Nancy and a chance conversation with the police sergeant who had been called to the home the night Bill had taken the children hostage. Janice had not seen a police report or any other documentation. The sergeant had told her he had been sure they would be taking a body out of the house that night.

Next we discussed the letters from the chemical dependency program and the counseling agency. Janice said Bill had asked that the letters be sent to the center for inclusion in his file. Unlike Nancy’s information about Bill’s violence to her, his abduction of the children and the police sergeant’s fear that someone might be killed, these letters became part of the documented information in his file. The information in the letter from the chemical dependency program was strictly behavioral. It said something like this: “Bill came here for treatment, completed 30 days of inpatient treatment, and has regularly attended outpatient follow-up groups.” There were no evaluative comments. The letter from the abusers program was quite different: “Bill is ready to begin the process of reconciliation. . . . He has recognized many of the unhealthy patterns of behavior he was using. . . . He has diligently followed his court orders and our recommendations to him to not have contact with his partner until she agrees.” The program counselor also suggested that the center play a role in starting that contact by offering to have the abuser program facilitate a first meeting “between the couple.”

The group read over the visit notes kept by Janice. They all followed the same format. Paragraph one recorded the date and time of the visit, the time at which he arrived, at which Nancy arrived, which children were present, and a brief description of their moods, dress, and departing comments to their mother. The next paragraph described what went on during the visit, the games provided, how the children and Bill interacted during the games, and how the children acted as they said good-bye. The cover letter accompanying these notes summarized the dates and times of Bill's visits over the past six months. It noted that he was on time for each visit and that Nancy was late twice. It also noted that he had completed his chemical dependency program and his batterers counseling program and that the center had letters from both of those agencies. The content of this file became the information the center reported to the courts.

The investigation team asked Janice about why these were the things the center reported to the court when the issue of safety was about Bill's threats to kill the children and his abuse of Nancy. She explained, "It's our job to present an unbiased objective report to the court, so we can only report on what we actually see." She was asked, "Do you think this gave the court a good idea about the children's safety?" She responded, "No, just the opposite, it made them look safer than they were. I think these reports almost helped the court get sidetracked on what the real issues were. But we had to be neutral in the case so I couldn't write in the report what I thought."

One of the team members asked Janice about her feelings about how safe the children or Nancy are from Bill in the future. She said, "You know, this whole case makes the hair on my neck stand up. I personally am afraid of him. He comes in here late in the day at least every other week and wants to talk. He gets other agencies to call me and write letters to me. He tries to talk to me as if we have some kind of a special relationship. I think if he is thwarted in his overall plan, someone will get hurt. But it's all in my gut. He's obsessed with his children. He seems very dishonest to me."

Janice and the investigating team concluded that the way the center was reporting to the court was definitely problematic in relationship to its obligation to protect adult and child victims from future harm as well as harm at the center itself. The group concluded that the way Janice felt constrained to act on the value of neutrality was inadvertently serving to misinform the court.

Janice was later present when the group interviewed two local judges and discussed Bill's case. Both judges were concerned that in the name of neutrality and objectivity, they were not receiving information that would help them make fair decisions. They were also both concerned that the notion of neutrality had shaped the center's work in ways that compro-

mised its ability to actively pursue safety for the children and woman in this case. And finally they both felt compelled to tell Janice that her assumption that the court knew the other facts of the case was erroneous.

Bill's case was used in a number of workshops and roundtables that followed the Michigan investigation. Most centers agreed that their documentation practices were similar to Janice's. Many could identify cases like Bill's in which they felt similarly constrained. It was Bill's case that sparked two major debates among grantees:³⁷ 1) How could centers design their documentation practices to make central attention to the safety of children and adult victims? and 2) In what ways does the current notion of neutrality prioritize or compromise a center's attention to victim safety?

37. And also the larger field of supervised visitation and safe exchange, as many Supervised Visitation Program grantees are part of the Supervised Visitation Network.



MAKING CHANGE: CAN WE BE PRO-ACTIVE ON SAFETY AND MEET COURT EXPECTATIONS?

Visitation centers funded by the Supervised Visitation Program are required to work with the courts, advocacy programs, and related community groups to design centers to best meet the needs of children and adult victims of abuse. A goal is to end the isolated and fragmented nature of societal responses to domestic violence and the harm it does. Although human services, courts, visitation centers, and advocacy programs have separate functions, the harm of violence can be lessened far more effectively if they work in concert.

Some centers see stepping out of their role as a move towards advocacy. The point could be made that OVW funding and the ongoing discussions are opportunities for making changes that would better protect the children and adult victims using centers. Some center staff would agree. Others would disagree because doing so would violate their neutral role and their standing with the court. At a roundtable discussion held in July 2005,³⁸ Myha, a center director, outlined the actions and concerns that might be involved.

We have an interagency group that meets monthly. Representatives come from the bench, child protection, the police, the shelter, our program, and the probation department. The purpose of these meetings is to raise issues about how we are all working together on cases where parents are using the visitation center and to see if changes are needed. I must say we recommend a lot of changes.

For example, we proposed that the group have a discussion about the possibility of the probation department including in their pre-sentence investigation form and report to the court a section on the safety needs of the children and the victim regarding visitation. This would require probation officers to ask victims if they want a condition of probation to be that the offender must use the center to supervise exchanges or visits or to have family or friends oversee exchanges and put that in the probation order.

We weren't sure if it was a good idea, but we wanted to think it through. Now doesn't this put us in an advocacy role? And if, during the discussions, we begin to think yes, this is a good idea, doesn't our support of such a policy shift constitute advocating for a specific group of clients using our center? Ninety-nine per cent of the people who will benefit from this are battered women.

38. "Partnerships between Visitation Centers and Battered Women's Advocacy Programs" (Safe Havens Demonstration Initiative Think Tank, Minneapolis, MN, July 25 - 26, 2005).

Some center directors were clearly uncomfortable with any such role for their center. Sue, a program manager, said,

We're a place where for two hours people are safe. We shouldn't try to be more than that; if we start to advocate for one parent over the other, we lose the neutral position fathers expect of us, especially the ones who are batterers. Remember, by an abuser believing we are neutral, he is more trusting, less hostile, and less volatile. So we have to be careful about shifting a delicate balance.

Sue was making an argument for neutrality that actually worked from the pragmatic position of keeping abusers from escalating their abuse. But many center administrators, advocates, and court representatives rejected the idea that centers should have no active role in promoting change. One judge responded by saying,

I don't need to think you don't have an agenda for helping people get safe. I do need to know that when you send me a report on a family that says we think Mr. X is dangerous because he's doing X, Y, and Z, it's because that's what's happening in that family right now. I need to trust that you don't have an agenda on a specific family and won't twist information to make your agenda happen. I deal with therapists and guardians and lawyers all the time that I trust because they're straight shooters. Then there are those that I don't trust at all because I've watched them over time spin tales to influence me.

Is there a conflict between a role for the center that is more pro-active in keeping victims safe and the expectations of the courts? The visitation center manager says, "Keep the role of the center very limited, keep it specific to what happens in those two hours only." The judge says, "You can promote an agenda of change, but when it comes to a specific case, just give me the facts."



MAKING CHANGES: ETHICAL DILEMMAS ARE OFTEN STRUCTURAL PROBLEMS

The vast majority of center workers and directors attending the round-table discussions could think of cases in which victim advocacy had presented worrisome practical and ethical dilemmas for their staff. How could one not help a victim gather documents for her case when she clearly needed help? Or make a few phone calls or talk to her lawyer when it was clear that to do so would make her and her child much safer? Would it not be unethical to refrain from doing so? Such actions would lead to no transmission of false information or bias about her abuser to courts or other agencies. Over and over center staff told stories of informal kinds of interventions, of going around the rules and acting behind the scenes. Yet such accounts led to hours of disagreement about these actions when they were made public.

Eventually it was acknowledged that the need to stretch the rules or breach roles was a widespread and common problem for nearly all staff. This dilemma, it was further agreed, was tied to several structural problems in the domestic violence intervention community. Neutrality was just one of the problems.



The problems were not just of philosophy but of structure, resources, and organization.

First, most visitation centers do not coordinate effectively with local child and adult victim advocacy programs to connect victims of abuse in the center with an appropriate advocate. Second, many current domestic violence advocacy programs are not organized to effectively advocate for battered women in the post-separation period. Nor have they established ways to connect with women using visitation centers as they have with women using the criminal and protection order courts. Finally, most visitation centers operate in communities where there are few options for advocating for children except through one or both of the parents. Centers find they have only child protection services to turn to when the advocacy issue they confront involves a child. All three of these problems have become primary focus areas of current cross-training and networking among OVW-funded centers.

CONCLUSION

This paper is both an invitation and a challenge. It is an invitation to visitation centers to engage far more actively and more broadly in the work of protecting victims of violence. It is a challenge to centers to work collaboratively with the courts and their communities to take up the unique opportunities they, as centers, have to help victims of violence. Through discussion and debate, many of those working in the field have already taken up this challenge. Their efforts can be summarized as follows. They:

- Actively engage in protecting adult and child victims.
- Abandoned the notion that children's interests or the court's interests are served by proclaiming a neutral stance in the conflict between parents when that conflict involves ongoing abuse.
- Retain the valuable aspects of being fair and impartial and providing a neutral space for parents to exchange children or for a non-custodial parent to visit.
- Re-examine their notions of objectivity in report writing by not stripping cases of their contexts and including ways of making the safety needs of the parties visible to the court in their documentation and reporting practices.
- Use their special position in relationship to courts and communities and their unique relationship with family members to help all family members live without fear, intimidation, or violence and to lessen the harm of violence.
- Use their expertise, knowledge, and unique experiences to develop new and enhanced relationships with the courts and with community-based multi-agency efforts to respond to domestic violence, stalking, and sexual abuse.

Centers are uniquely positioned to lessen the long-term harm violence does to children and adult victims—and to abusers. A misguided commitment to “neutrality” prevents many visitation centers from doing so. A commitment to fairness and impartiality, on the other hand, allows centers to “choose sides”—against violence and for safety. The goals of the courts in using centers and the goals of the centers working to protect victims of violence are both better served by this expanded role.

