

# Striking a Balance for Supervised Visitation in New Jersey

by Christopher Rade Musulin

Most family law practitioners are familiar with supervised visitation. The concept appears to be a function of common sense, the authority grounded in the broad equitable powers of the court and its *parens patriae* authority to protect children. In fact, supervised visitation in the state of New Jersey is governed by a little known, yet highly detailed, statutory enactment from 1984 governing administration of the program, separate and distinct from Title 9. There is an elaborate administrative labyrinth resulting from this statute administered by the Administrative Office of the Courts involving a mix of public as well as outsourced private entity programs. In addition, there is an enormous and diverse body of social science both supporting and criticizing supervised visitation, much of it dating back decades. A review of the New Jersey program not only provides an enhanced understanding of the strengths and weaknesses of the program but also permits attorneys to more effectively advocate for the use or exclusion of supervised parenting time in their cases.

## Role of the Court

Historically, the judicial system has been required to address significant human conflicts, none of which is more important than proceedings involving the parent-child relationship. As adults' interpersonal relationships fail, leading to acrimony, separation and potential court proceedings, issues emerge regarding custody and the extent and frequency of contact with both parents. Allegations and concerns, real or imagined, commonly develop, including: lack of basic parenting skills; domestic violence; Division of Child Protection and Permanency/FN dockets; substance use or abuse; high adult conflict; mental illness; threats of abduction; long periods of no contact/reunification; or new relationships with one or both of the parents. When allegations suggesting a direct risk or danger to children emerge, courts have historically struggled with fashioning a remedy as it requires balancing two equally important fundamental rights –

protecting children from harm versus the constitutional right to be a parent.

## Title 9 Considerations

Any discussion of the role of the court in matters involving parents and children must begin with Title 9. The statute begins with the following declaration:

The Legislature finds and declares that it is in the public policy of this State to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.<sup>1</sup>

The right to parent a child is a fundamental right guaranteed by the U.S. Constitution. In *Troxel v. Granville*, the U.S. Supreme Court established, unequivocally: "... it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children."<sup>2</sup> Faced with a similar question, the New Jersey Supreme Court followed suit in its decision of *Moriarty v. Bradt*:

The right to rear one's children is so deeply embedded in our history and culture that it has been identified as a fundamental liberty interest protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.<sup>3</sup>

Balancing the Constitutional right to be a parent, there is an equally critical imperative of the judicial function: protecting children. In fact, Title 9 includes specific factors that directly address the protection of children, such as: the history of domestic violence, if any; the safety of the child and the safety of either parent from

physical abuse by the other parent; the stability of the home environment offered; and the fitness of the parents.

### Protection of Domestic Violence Act

Additional statutory authority articulating concerns with the protection of children is contained in the New Jersey Prevention of Domestic Violence Act. This includes the following:

b. ...At the hearing the judge of the Family Part of the Chancery Division of the Superior Court may issue an order granting any or all of the following relief:

...

(3) An order providing for parenting time. The order shall protect the safety and well-being of the plaintiff and minor children and shall specify the place and frequency of parenting time. Parenting time arrangements shall not compromise any other remedy provided by the court by requiring or encouraging contact between the plaintiff and defendant. Orders for parenting time may include a designation of a place of parenting time away from the plaintiff, the participation of a third party, or supervised parenting time.

(a) The court shall consider a request by a custodial parent who has been subjected to domestic violence by a person with parenting time rights to a child in the parent's custody for an investigation or evaluation by the appropriate agency to assess the risk of harm to the child prior to the entry of a parenting time order. Any denial of such a request must be on the record and shall only be made if the judge finds the request to be arbitrary or capricious.

(b) The court shall consider suspension of the parenting time order and hold an emergency hearing upon an application made by the plaintiff certifying under oath that the defendant's access to the child pursuant to the parenting time order has threatened the safety and well-being of the child.<sup>4</sup>

These two fundamental statements of public policy – the Constitutional right to be a parent/the Title 9 imperative to ensure regular and frequent contact, versus protecting children from a risk of harm – created an intel-

lectual conundrum eventually addressed by the enactment of the New Jersey Supervised Visitation statute.

### New Jersey Supervised Visitation Statute

In 1984, the New Jersey State Legislature, in an attempt to balance the two competing concerns, adopted N.J.S.A. 2A:12-7 et seq., referred to as the "Supervised Visitation Program Act":

The Legislature finds and declares that:

a. In the area of child visitation a court often orders supervised visitation where there has been a history of child abuse, medical disabilities, psychiatric problems or other situations where the safety and welfare of the child may be jeopardized.

b. Often court ordered supervised visitation never occurs due to the inability to locate volunteers willing to be present during the visitation and a facility in which the visitation may take place.

c. The inability of a parent or guardian to spend time with a child poses serious psychological problems to both the parent and the child and prevents the growth of a normal, healthy relationship.

d. The purpose of this act is to facilitate supervised visitation by making the facilities and members of local community organizations available to assist in court ordered supervised visitation.

As used in this act:

a. "Approved community organization" means a community organization which applies to the director for participation in the program and is approved for participation;

b. "Director" means the Director of the Administrative Office of the Courts;

c. "Program" means the Supervised Visitation Program created pursuant to this act.

There is created a program to be known as the "Supervised Visitation Program" which shall be administered by the director.

The purpose of the program shall be to promote court ordered supervised visitation by having approved community organizations throughout the State supply facilities and personnel to enable supervised visitation to take place.

The director shall:  
a. Publicize the existence of the program;  
b. Adopt rules for the program including among other things—

(1) Standards for approved community organizations,

(2) Standards for accounting and auditing, and

(3) The number of approved community organizations needed throughout each county;

c. Prepare uniform applications for community organizations to apply for participation in the program, which application shall request, among other things—

(1) The name, address, county and function of the community organization,

(2) The size and location of the facility where supervised visitation would take place,

(3) The average number of persons available in the facility at any given time who would be present during the supervised visitation,

(4) The community organization's fee for use of its personnel and facilities for the program,

(5) The number of persons the facility could accommodate at one time, and

(6) The general contents of the facility;

d. Select and approve those community organizations which comply with the director's standards and which would accept the lowest fee for participation in the program;

e. Prepare a printed list by county of approved community organizations available for participation in the program;

f. Distribute the list to each court within the State having jurisdiction over child visitation matters;

g. Prepare and submit budget estimates of State appropriations necessary for the operation of the program and make recommendations with respect thereto;

h. Report annually to the Legislature and the Chief Justice of the Supreme Court on the activities of the program and make recommendations with respect thereto; and

i. Do all other things necessary and proper to implement the purposes of this act.

Any court having jurisdiction over a child visitation matter, which orders supervised

child visitation, may direct in the order that the visitation take place at an approved community organization.<sup>5</sup>

### **Administration of the Program**

The Administrative Office of the Courts is responsible for the administration of the statute as the legislation specifically defines the duties and responsibilities of the program administrator. The statute creates a statewide coordinator of the SVP who is an employee of the Administrative Office of the Courts. That person ensures program compliance with the intent and purpose of the statute. The statewide coordinator is also responsible to interphase with the county court systems to ensure compliance with the statute.

Each county court system has a SVP county coordinator, similar to MESP coordinators. The county coordinator ensures that the program is properly managed in a given vicinage. Responsibilities include screening and review of all cases referred; coordinating and scheduling the actual supervision; and maintaining statistical information that is periodically delivered to the state coordinator. The county coordinators are also responsible for training and managing all of the supervisors, both public employees and privately outsourced individuals. A list of current county coordinators and program locations as prepared by the Administrative Office of the Court is contained in the appendix to the present article.

### **Community Involvement**

The SVP model utilized by the State of New Jersey blends together court staff as well as volunteers. Members of the public can seek training and become part of the court program. The use of volunteers is critical because they can offer supervision on evenings, weekends and holidays when court staff is not available. Each county has a different protocol. The volunteers must complete a certified training course that is designed by the Administrative Office of the Courts and is generally taught by the county coordinators.

In addition to court staff and volunteers, there are also community sites. These facilities can either donate their facility or can be contracted for payment of negotiated fees. There is a process for approval of the sites through the Administrative Office of the Courts. The criteria require that the site be accessible, functional, comfortable and safe. The current supervised visitation

site list for each county is contained in the appendix to the present article.

### Function of the Program

Typically, the program is initiated by the entry of an order with a referral to the SVP. The Order is then provided to the county coordinator. A prescreening interview takes place in dissolution, non-dissolution and domestic violence matters in the event the Court is concerned about the physical or emotional welfare of a child. Any domestic violence cases pending a Risk Assessment are always referred to the SVP. Where there is a real concern with risk, the prescreening interview is conducted by the county coordinator. The purpose of the interview is to assess the case's suitability for the program and to work out a schedule for the supervised visitations.

The court order is supposed to be highly detailed, i.e., the number of visits during a fixed time period, the length of the visits, the duration of the supervised visitation with a period for review, the authority of the supervisor, the names of anyone permitted to attend, and other pertinent details.

The supervisor can be the county coordinator, court staff, volunteer, or a private agency under contract with the county. Their role is to serve as a neutral observer to carefully monitor the visitation and, at their discretion, intervene on behalf of the child. This implicates a number of issues, such as safety, adequate security, proper training of the supervisor and, in this modern world, the use of electronics such as cell phones, iPads or computers during visitations. The supervisor has the authority, which should be memorialized in the court order, to terminate the visitation if any rules or protocols are violated, or if the supervisor determines that the visitation is simply too stressful to the child or presents some type of a risk to anyone involved.

Some of the supervised visitation programs have a session fee that varies depending upon the county, the private agency, the length of the session, etc. Additionally, the Federal Government periodically provides funding through different block grants to facilitate supervised visitation. For example, in 2012 the New Jersey judiciary received \$210,145 through a program called the Federal Access and Visitation Grant. More recent funding statistics have not been made public.

Under the terms of the SVP, the supervisor is either directed to, or of their volition may choose to, prepare what is referred to as a "periodic report." There is signifi-

cant literature as to the appropriateness and/or probative value of such report in contested litigation. From a litigator's perspective, the supervisor is a fact witness. Some literature criticizes the elevated probative value given to these reports simply because the supervisor is often a credentialed individual, giving the report the imprimatur of something weightier than it may deserve.

### Models of Supervised Visitation

There are different models of supervised visitation. The most common is the court-sponsored model offered at the courthouse or some other state, county or municipal facility. Another model is to outsource the program, which is initially accomplished through a competitive bidding process. Some of the private entities are religiously based organizations, and others are advocacy based organizations. Literature on this topic expresses concern about the bias or agenda of the private entities and the impact it may have on the intent and purpose of the program.

A third model involves utilization of a trusted third party, such as a friend or family member, who serves as a supervisor. It is commonplace for discussions to occur between the court, counsel or the parties at the courthouse resulting in the appointment of an agreed-upon third party. The most common criticism or concern with this type of arrangement is the accountability of the supervisor – the inference of potential bias and the question of whether the friend or family member can communicate an objective report to the court. The limitation of using a friend or family member is that they rarely have adequate training to appropriately serve as a supervisor. From the perspective of the supervisor, they may already experience trepidation about involvement in this dynamic, only to find out they may be called upon to write a report or testify in court concerning the supervised parenting time.

A fourth model involves the use of a mental health professional, with or without therapeutic overtones. Litigants can agree to use a psychologist, psychiatrist, or Master of Social Work to serve as a supervisor. In high-risk situations, this is the safest way to effectuate supervised visitation. For example, where DCPD has become involved with substantiated abuse of a child, a mental health professional is best equipped to monitor interactions between parent and child.

Another option involves group settings in which several parents and children are scheduled together, allaying the intensity of one-on-one interaction. There is

some perceived benefit among mental health professionals with this model, similar to that of group therapy, as it gives a greater sense of safety in numbers.

Virtual supervised visitation is also available, which can be implemented as a function of distance or to create absolute safety, especially where there has been direct abuse of a child. As a model, virtual contact by FaceTime or video call is considered as a potential initial step toward personal supervised contact.

With all models of supervised visitation, there are critical safety concerns for both the children and the adults, and there must be safe exchange points or meeting places. Each county coordinator is expected to coordinate with the sheriff's department to ensure officer availability, tailored to the needs of the particular court facility. If the SVP is outsourced to private entities, consideration must be given to security concerns, particularly where there is a history of domestic violence, abuse or stalking.

### Case Law Authority

There are approximately 250 New Jersey cases addressing supervised visitation. The vast majority of cases are unreported and involve DCPP proceedings.<sup>6</sup> In fact, only a dozen of the 250 cases involve proceedings under FM, FD or FV dockets.

None of the cases contain a comprehensive discussion of the concept of supervised visitation, the history of the statute or any reference to social science. However, they detail fact patterns justifying the imposition of supervised visitation that are useful to review.

In *Bricker v. Kobrin*,<sup>7</sup> a highly litigious FD matter, the trial court ordered supervised visitation as a result of defendant's "difficulty in complying with Court Orders, including those relative to the child." Defendant's parenting time with the parties' 3-year-old child was supervised by Catholic Charities with the plaintiff paying the \$50 per hour supervision fee. In subsequent proceedings, the plaintiff was granted sole custody while the defendant received two hours per week unsupervised parenting time, with an additional four hours supervised, because her conduct had become "increasingly contumacious and unpredictable over the years of litigation."

Following a trial, the court found:

[D]efendant was 'not fit to have legal or physical custody [of the child]' and was not a credible witness. In support of that conclusion,

among other things, the court referenced defendant's alteration of the child's medical records using hand-written notations 'intended to fool the recipient into believing they were written by a medical professional.' At one point during the trial, defendant staged a demonstration during which she carried a poster bearing the child's picture while she stood outside the courthouse. The poster asked if anyone was willing to provide her with pro bono legal services to protect her 'disabled silent child.'

The trial court ordered the defendant to fully reimburse the plaintiff the cost of all supervised visitation through Catholic Charities.

On appeal, the defendant alleged that the trial court abused its discretion by ordering her to reimburse the cost of the supervised visitation. In affirming the trial court decision, the Appellate Division approved the trial court's use of Rule 5:3-5(c) and the Williams<sup>8</sup> factors in assessing responsibility for the cost of supervised visitation. The Appellate Division found persuasive the trial court findings of fact pertaining to the defendant's repeated bad faith, unreasonable positions, and behaviors that posed a potential for harm to the child:

In this case, to require defendant to pay for the costs of the supervision of her parenting time seems eminently reasonable; not even a sanction. There is nothing in the record which should relieve defendant of that obligation. It was defendant's conduct which led to the supervision. In any event, plaintiff and defendant do not have a relationship which legally obligates him to subsidize the cost of past supervised parenting time. The court's decision appears to be an unassailable exercise of her discretion and we see no reason to disturb it.

In *Crawford v. Minch*,<sup>9</sup> approximately six months after the entry of a Final Judgment of Divorce and execution of a Marital Settlement Agreement which contained provisions for reasonable and liberal parenting, the defendant, who was the parent of alternate residence, moved for a fixed parenting time schedule. The plaintiff opposed, alleging substance abuse. The court ordered supervised visitation in the Union County outsourced supervised visitation program, called Cooperative Counseling Servic-

es, directing the parties to split the cost. The defendant was ordered to undergo a forensic substance use evaluation, account for weapons in his possession and submit to a home inspection. The home inspection was satisfactory. The defendant submitted a certification to the court indicating that he sold his guns. The substance use evaluation revealed use of anabolic steroids and alcohol.

Following two unsuccessful mediation sessions, the parties returned to court to review the report of the visitation supervisor. The supervisor recommended continued supervision. During a subsequent Case Management Conference, the court ordered the defendant to pay for another forensic evaluation. At yet another Case Management Conference, the defendant informed the court that he could not pay for any forensic evaluations. The court then ordered him to remain in supervised visitation at his own expense.

Shortly thereafter, defendant withdrew his request for unsupervised visitation. The court entered an order for defendant to undergo yet another forensic substance use evaluation and to pay attorney's fees to the plaintiff of \$26,715.62, incurred from the inception of the matter. The defendant appealed that order, arguing it was an abuse of discretion. The Appellate Division affirmed the trial court, ruling that the trial court was correct in applying Rule 5:3-5(c) to the attorney fee award. When addressing the third factor of the Court Rule, the good faith and reasonableness of the parties, the court specifically addressed the supervised visitation issue:

Defendant has disregarded [c]ourt [o]rders set specifically to allow him to exercise parenting time with his daughter, which was his original request in June 2017. Defendant did not comply with [c]ourt [o]rders to certify he no longer had weapons and that [the] same were secured, etc. The [c]ourt has absolutely no way to determine whether the weapons were actually sold based on the information [d]efendant provided, as he provided no receipts for the sale of the weapons. Although [d]efendant has complied with some provisions of [c]ourt [o]rders such as undergoing substance abuse evaluations, urine screens, a [Division of Child Protection and Permanency] investigation, and psychological evaluation, [d]efendant unilaterally stopped going to the [c]ourt [o]rdered supervised parenting time and did not schedule

the psychiatric and best interest evaluation set forth in the [c]ourt's January 10, 2018 [o]rder. It was only after nearly seven months that [d]efendant decided to amend his motion and seek only supervised parenting time, rather than joint custody and a visitation schedule with overnights. Defendant is also not up to date on his child support. All of these actions caused [p]laintiff extensive and unnecessary counsel fees. Thus, the [c]ourt concludes [d]efendant has not acted entirely reasonable nor in good faith.

In *Entress v. Entress*,<sup>10</sup> the plaintiff sought reversal of an order of the trial court imposing restrictions on her contact with two minor children. The Appellate Division discerned no merit to her contentions and affirmed the trial court decision.

The parties entered into an agreement concerning custody and parenting time following the testimony of a court-appointed forensic psychologist. The agreement was based on the expert's findings and recommendations. The defendant/father became the parent of primary residence and plaintiff/mother had supervised parenting time upon the completion of certain conditions, which would eventually transition to unsupervised if she was compliant.

The plaintiff subsequently completed a psychological evaluation that recommended unsupervised parenting time. A family therapist who had served as a therapeutic parenting time supervisor cautiously supported the recommendation. Following motion practice, the plaintiff was granted four hours of unsupervised parenting time bi-weekly on the condition that the children continue meeting with the court-appointed therapist and she continue her personal counseling.

Sometime thereafter, there was an acrimonious explosion of litigation—municipal court, DCPD involvement and post-judgment FM motions. Under the FM docket, the court suspended the unsupervised parenting time and ordered supervised parenting time as plaintiff failed to participate in her personal psychotherapy. Pursuant to additional motion practice, plaintiff's contact with the children was further limited due to her ongoing non-compliance. The plaintiff appealed these orders, alleging that the children wanted to see her and that the trial court abused its discretion.

In rejecting her appeal, the Appellate Division noted:

The parties relied on Dr. Gruen's testimony

when fashioning their September 29, 2005 consent order. Dr. Gruen expressed plaintiff exhibited a ‘pattern of vindictive and alienating behavior of significant proportions’; ‘[h]er insincerity, jealousy and narcissism...caused her to demonstrate raw aggression and vengeance’ toward defendant; and she had ‘manipulated the children and made them feel guilty about not being with her’ in the presence of the psychologist, while ignoring the children’s attempts to express their positive feelings about residing with their father.

### Conclusions from Case Law Authority

Two primary principles emerge from these decisions. The first principle is the application of Rule 5:3-5(c) and consideration of good and bad faith when assessing responsibility for supervision fees. The second principle is a recognition that the authority of the court to order supervised visitation is not only grounded in statute, but also under its *parens patriae* authority pursuant to Title 9.

### Articles

There are hundreds of articles addressing every imaginable aspect of supervised visitation. This includes each step from initial determination and screening, to appropriate training for supervisors, to the adequacy of security, to the lack of funding and beyond. Some of the more interesting articles are discussed below. An expansive selected bibliography is included in the appendix to the present article.

A common basis for referral to the SVP is an allegation of “parental alienation” premised on an assumption that supervised visitation is either a starting point or, more naively, a panacea. Janet Johnson, Ph.D., has written a popular and well-conceived article specifically addressing allegations of “parental alienation” and the use of the SVP.<sup>11</sup> The American Psychological Association does not recognize “parental alienation syndrome,” despite the popular use of the phrase in connection with family law matters. Johnson argues that a more apropos expression is “alienated child syndrome.” She explains a child who persistently expresses unreasonable negative feelings about a parent, significantly disproportional to the child’s actual experience with the parent, is properly categorized as an alienated child. In such instances, supervised visitation is not effective. Rather, there should

be therapeutic intervention to address the behavior that caused the estrangement.

The absence of adequate funding for the SVP is the subject of dozens of scholarly articles for a number of reasons, not the least of which pertains to relationship between insufficient funds and insufficient security. An article by Wendy Crook, Ph.D., memorializes the results of a study involving 47 supervised visitation programs in the state of Florida in 2007.<sup>12</sup> The core finding of the study was that programs which operate on minimal budgets result in limited or restricted hours and poor or non-existent security representing a failure of the SVP.

One study examined the use of indefinite supervised visitation, which can result through mere inadvertence or the entry of an order without a specific review period.<sup>13</sup> Additionally, many custodial parents, including victims of domestic violence or low income individuals, often lack the emotional wherewithal or sufficient funds to return to court. If the best interests of the children is the guiding paradigm, orders for indefinite supervised visitation should be discouraged.

Another study has reviewed significant literature related to the behavioral and emotional outcomes of children engaged in supervised visitation.<sup>14</sup> The authors conclude that there is a striking lack of research, empirical in nature and peer-reviewed, assessing the effectiveness of supervised visitation or the long-term impact on familial relationships. Studies claiming to affirm positive or negative impacts of supervised visitation are fraught with ambiguous empirical results.

Four practitioners working for the Queensland Children’s Contact Service (an Australian supervised visitation model) participated in a study and provided extensive data to the authors concerning strategies to most effectively implement positive and safe supervised visitation.<sup>15</sup> Three major strategies emerged from the study: (1) to meaningfully engage all individuals involved in the program, which includes education and pre- and post-visitiation debriefing of parent, child and supervisor; (2) to consistently encourage positive parent-child interactions; and, of particular importance, (3) to emphasize the autonomy of the child – give the child a voice.

Judges deciding whether to impose supervised visitation must distinguish between high parental conflict situations versus domestic violence, abuse or other situations which pose a risk of harm to children. Cases involving the threat of risk merit supervised visitation, while high conflict situations belong in a therapeutic setting.<sup>16</sup>

## Conclusions

In the battle of fundamental privileges, the constitutional right to be a parent is secondary to the protection of a child, justifying the utilization of SVP in appropriate situations.

Action needs to be taken to standardize education and training at the initial screening step. Properly screening a case for consideration in the SVP program is tantamount to a condensed Risk Assessment. Proper education is needed to distinguish between referrals based on substantiated abuse or domestic violence as opposed to situations of high adult conflict which are generally not appropriate for the SVP. Education and training can also help address the perception of cultural insensitivity of the staff at the SVP facilities. With regard to the judiciary, greater focus needs to be placed on incorporating detail in the order reaching beyond the frequency and location of the parenting time. Other critical details such as a review date for the SVP and what constitutes appropriate or inappropriate behaviors during visits – e.g., not discussing the adult conflict with the child, whether electronic devices are permitted, whether other friends or family members can also attend, etc. – should be included in the order. Consideration should be given to creating a statewide uniform form of order for the program.

It is also the case that there is a lack of sufficient funding for the SVP, especially to facilitate outsourcing for parenting time opportunities on evenings, weekends and holidays. There should be consideration for fee waivers for lower income parents who cannot afford to pay the fee for the SVP, resulting in loss of time with children. Absent adequate funding, there is limited or no security at the outsourced facilities. This leads to a statistical increase in incidents of stalking and violations of Restraining Orders. With sufficient funding, staff can be trained in this area. Increased funding would also enable the county supervisors to perform random site visits to ensure that the programs are in compliance with standards as a condition of continuing the contract for outsourcing. There are federal, state and private sources of funding for the programs. While many statewide legal organizations donate funds to CASA, the SVP should be considered as another worthy program for such charitable expressions.

For a number of reasons, there is wide concurrence in the literature as to the limited probative value of supervisor reports. Even where the supervisor is a credentialed individual, such as a psychologist or MSW, the supervisor is not acting in a forensic capacity – they are fact witnesses. The supervisor is acting as an adult chaperone, not acting in compliance with the standards established by the American Psychological Association for forensic evaluations. Control also needs to be exercised over the contact and disclosure between the county SVP coordinators, the parties, the supervisors and the court as a matter of due process. There is a concern among the Bar that various ex parte communications may take place which impact the court's perceptions and decision-making.

Adults and children need to be adequately prepared for supervised visitation. Perhaps this can be addressed as part of the parent education program curriculum for the adults as an introduction to the concept. There should also be a debriefing of both the adults and the children to gauge the reaction of the participants and assess the impact of supervised visitation. A mechanism is needed for review of the success of the program. In relation to this, much of the social science indicates that the children need to have greater autonomy and a voice to object or agree, particularly in cases from the FN and FV dockets where they have been directly subjected to abuse or witnessed egregious adult behavior. A guardian ad litem may be needed in such situations to give the children a voice. One of the core findings of the social science research is that not all children are the same and not all children maintain the exact same coping mechanisms, potentially compromising their sense of safety and security.

The New Jersey Supervised Visitation Program strikes a reasonable balance between protecting children and the constitutional right to be a parent. Similar to all aspects of family law, a thorough examination, discussion and review of social science can only lead to improvements in this vital program. ■

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## Endnotes

1. N.J.S.A. 9:2-4
2. *Troxel v. Granville*, 530 U.S. 57, 66 (2000)
3. *Moriarty v. Bradt*, 177 N.J. 84, 101 (2003).
4. N.J.S.A. 2C:25-29
5. N.J.S.A. 2A:12-7-12
6. Supervised visitation in DCPD proceedings is beyond the scope of the present article.
7. *Bricker v. Kobrin*, 2010 N.J. Super. Unpub. LEXIS 1088 (App. Div. May 21, 2010)
8. *Williams v. Williams*, 59 N.J. 229 (1971)
9. *Crawford v. Minch*, 2019 N.J. Super. Unpub. LEXIS 1568 (App. Div. July 9, 2019)
10. *Entress v. Entress*, 2008 N.J. Super. Unpub. LEXIS 2761 (App. Div. June 10, 2008)
11. Johnston, J., "Rethinking Parental Alienation and Redesigning Parent-Child Access Services for Children who Resist or Refuse Visitation" – Paper presented at the International Conference on Supervised Visitation, Staatsinstitut für Frühpädagogik Munich, Germany July 9-10, 2001.
12. Crook, W. and K. Oehme, "Characteristics of Supervised Visitation Programs Serving Child Maltreatment and Other Cases" *Brief Treatment and Crisis Intervention*, 7:4, November 2007.
13. Bailey, M. (1999). "Supervised Access: A Long-Term Solution?" *Family & Council Courts Review*, 7:478.
14. Birnbaum, R. and Alaggia, R. (2006). "Supervised Visitation: A Call for a Second Generation of Research." *Family Court Review*, 44 (1), 119-134.
15. Burton, J. (2003). "In the Child's Best Interest: Strategies Workers use to make Supervised Contact with Non-residential Parents a Positive Experience for Children." Paper presented at the Social Change in the 21<sup>st</sup> Century Conference.
16. Dalton, A.C., Carbon, J.S. and Oleson, N. (2003), "High Conflict Divorce, Violence, and Abuse: Implications for Custody and Visitation Decisions." *Juvenile and Family Court Journal*, 54:11-33.