Raising The Bar: A Risk Assessment Checklist
When Supervised Access Is Being Considered
in Child Custody Disputes

Michael Saini1 Rachel Birnbaum2

1. INTRODUCTION

Supervised visitation, also known as supervised access or child contact services, are offered through private and publicly funded programs around the globe, all with the common goal of facilitating contact between non-custodial parents and their children where this is in the children’s best interests.3 The use of supervised

1 Associate Professor, Factor-Inwentash School of Social Work, University of Toronto, Toronto, Ontario. The authors gratefully acknowledge the research and administrative support of Stephanie Marple and Irmtraud Hutless, Kailee McDonald (MSW students) and Shely Polak (social work doctoral student). The authors are most grateful to Judy Newman, Program Manager of Supervised Access Program, Ministry of Attorney General, Toronto, Ontario for her support and contributions throughout the research process. We also acknowledge the Social Science and Humanities Research Council of Canada for their financial support.

2 Professor, Cross-appointed in Childhood & Interdisciplinary Programs & Social Work, King’s University College, Western Ontario.

Visitation services in family law has steadily increased. Supervised visitation is often court ordered to minimize and prevent child maltreatment, to reduce the risk of harm to both parents and children, to improve and facilitate positive parent-child relationships, and to provide written accounts of the factual observations of the visit to the court, if required. In addition, supervised contact can help to prevent children from feeling abandoned, while providing opportunities for positive interactions with non-custodial parents, thereby minimizing further re-traumatization.

The assumption underlying supervised visitation is that children benefit from having contact with their non-custodial parent in a supervised access centre following separation and divorce; and that supervised contact provides children with a safe, neutral and child-centred setting to facilitate, maintain and/or enhance contact with non-custodial parents even when they have experienced or witnessed traumatic events (e.g. domestic violence, sexual abuse, mental illness) by their non-custodial parent. However, others have challenged whether supervised visitation may also put children at further risk given the lack of standards and the serious issues that lead to an order for supervised visitation.

2. THE EMERGENCE OF SUPERVISED ACCESS STANDARDS

There exist no standardized tools for assessing the need for and level of supervision between a non-custodial parent and their child. In addition, while parental contact may be limited in cases where a child is found to be at risk of harm, section

---

4 Supervised visitation has grown from 32,772 (2009 - 2010) to 35,135 (2012-2013) families served in Ontario. These numbers include supervised visits and exchanges but not the number of families on the waiting list.


16(10) of the Divorce Act provides that “the court shall give effect to the principle that a child of the marriage should have as much contact with each spouse as is consistent with the best interests of the child”. It has often been argued that this “maximum contact” principle focuses on the rights of the parent to as much contact as possible or practicable even in cases where this may be to the detriment of the safety or emotional well-being of the child and/or the custodial parent.

As a result, court orders can be inconsistent, resulting in cases with “like” fact patterns ending in different results; this variance in outcomes has also been observed in family disputes involving relocation and shared parenting to name a few. One example of this inconsistency relates to the conditions attached to supervised visitation orders: while a non-custodial parent in one case might obtain an order for supervised visits at a government approved centre, another non-custodial parent might obtain an order for access supervised by a relative, or, that “transfers” of the child are supervised with little attention paid to the child’s level of comfort and type of supervision required — in the name of the child’s best interests. Gordon argues that the term “best interests of the child” is unduly vague, and is often applied differently by judges, lawyers, and mental health professionals.

These concerns, combined with a lack of adequate regulation and accreditation of supervised access providers, leave children and the custodial parent at risk; this
is particularly true in cases involving domestic violence. The lack of regulation of supervised access services in Canada is partially due to the lack of professional supervised access providers and persistent underfunding for this important service.

Prior to 1992, there were no rules or standards in place to provide guidance for supervised access centres. This changed when a group of like-minded professionals in the United States and Canada came together to form the Supervised Visitation Network (SVN). Similar initiatives in Britain, Australia, New Zealand, France, Israel, Ireland, and Scotland also led to the creation of networks of supervised access services facilitated by list serves, email and the internet. These networks served as a vehicle to communicate and share best practices with what little empirical research was emerging at the time.

In 2007, the SVN developed its Standards for Supervised Visitation and Exchanges. These standards articulate the goals and program philosophy for SVN. The Council Of Accreditation (COA) Standards for Accreditation were developed in 2014/15.

These steps have led to a similar movement towards developing an evidence informed checklist of criteria or considerations to guide child custody assessors and others in making parenting recommendations for supervised access between a child and their non-custodial parent. Some checklists include the “Visitation Checklist” proposed by Murphey and the “Supervised Visitation Checklist” or SVC developed by Saini and Newman. Murphey’s checklist details five criteria which clinicians assign scores. According to Murphey, “even in the absence of comprehensive data for assigning scores, the documentation of the factors affecting the specifiers has the advantage that many of the issues and mitigating circumstances in specific areas of concern have to be addressed.”

15 Online: <http://www.svnetwork.net/>.
16 The National Association of Child Contact Centres (“NACCC”), online: <http://www.naccc.org.uk/>.
19 See online: Supervised Visitation Network <http://www.svnetwork.net/standards.asp>.
20 Ontario is the only Canadian province that has a member on its Board of Directors. The second author acted in the capacity as an expert advisor/reviewer to the Council of Accreditation during the development of the Standards in 2014 with Judy Newman, Program Manager, Supervised Access, Ministry of Attorney General, Toronto, Ontario.
23 Murphey, above note 21, at 79.
Saini and Newman developed their checklist based on scoring risk criteria relating to both parents and children, both alleged and proven, in relation to access and other factors. The checklist was found to have internal validity and reliability in a limited study. Of course, any tool would need to be used in conjunction with other information about the family. However, the use of an evidence-informed checklist may provide a useful guide for reviewing both risk and protective factors in order to assist mental health professionals in making parenting recommendations, and to assist judges in making decisions as to whether or not supervised access is appropriate and necessary.

(a) The Emergence of Risk Assessment Tools

There is also a growing awareness of the need to screen for risk when determining the suitability of supervised visits and exchanges. The Supervised Visitation Network’s Standards for Supervised Practice, for example, notes that “a provider may review and analyze client information and behavior to determine whether services can be provided safely and/or to deny or suspend services because of potential risks of harm to a client or staff member.” Similarly, the Safe Havens supervised visitation project has developed its own Guiding Principles, noting that “visitation centers are not expected to eliminate all of the dangers or risks present in domestic violence situations . . . However, with careful planning, centres can take steps that will enhance the safety of child(ren) and adult victims to the greatest extent possible.” In deciding which factors should be considered in determining the suitability of supervised visitation or exchanges, several textbooks on custody evaluations provide useful guidance regarding the level of supervision needed. Decision-

---

24 See Michael Saini and Rachel Birnbaum, “The Supervised Visitation Checklist: Validation with Lawyers, Mental Health Professionals and Judges” [in press] Family Law Quarterly for the reliability and validity of the SVC as well as the qualitative themes by mental health professionals, lawyers and judges in Ohio who validated the SVC Checklist.


making tools\textsuperscript{31} and risk assessment tools for mediators\textsuperscript{32} are also important to consider. Jaffe et al further provide a differential approach for screening for risk in cases where domestic violence is alleged, which provides preliminary guidance to identify suitable parenting arrangements and services for specific children and families.\textsuperscript{33}

When making decisions about whether a child and parent should use supervised visitation services, the literature suggests that there are a number of factors that should be considered. Due to the complexity involved in weighing these competing factors, standardized checklists, tools and measures are preferred to ensure that no single factor is overemphasized or omitted.\textsuperscript{34} Standardizing the assessment of risks associated with the suitability of supervised visitation has the advantage of providing a consistent emphasis on the factors most imperative to decision making. Incorrect decisions can lead to any number of detrimental outcomes, including leaving children in unsupervised contact with an abusive parent or requiring supervised contact when no such service is needed.\textsuperscript{35}

When deciding which cases would be most appropriate for supervised visits and exchange, judges, lawyers, child custody assessors, and other professionals have historically relied upon their own professional experience. Kropp, for example, notes that most widely used screening practice for domestic violence is that of clinical judgment.\textsuperscript{36} Dawes notes that clinical estimates of risk are affected by a number of contextual and individual factors that can become too complicated to consider objectively.\textsuperscript{37} Mistakes can have serious implications for children and families as inaccurate identification of the appropriateness of supervised parent-child contact can place children and parents in a risky situation, which may lead to subsequent violence and/or abuse.\textsuperscript{38}

Standardized decision making tools have existed for many years in other practice fields, including medicine, health, criminology, and child protection with mod-


\textsuperscript{34} Drozd and Olesen, above note 31.


est to positive results. Monahan et al, for example, have emphasized the importance of devising standardized actuarial conclusions regarding the risk of domestic violence. Standardized decision tools differ in purpose, but they share the common goal of helping decision-makers to increase the accuracy of these decisions based on a careful consideration of the factors most related to the occurrences of that event. Within the context of supervised contact, standardized decision making can facilitate consistent consideration of the factors most likely to suggest the need for supervised contact between children and parents following separation and divorce. To advance the scientific knowledge base for making better-informed decisions regarding supervised parent-child contact, there must be reliable and valid methods for assessing and measuring the presence of factors related to the appropriate use of supervised services.

Developing standardized assessment tools for decision-making within the context of supervised visits and exchanges should address at least one of four main purposes of devising actuarial tools: 1) to flag potential cases that would benefit from supervised contact from the general population of separating parents; 2) to identify the presence of factors in cases where supervised visits and/or exchange has been ordered; 3) to assess the continued risk of children and families once they begin supervised services; and, 4) to assess for the potential risk of harm to children and families before a child transitions from supervised to unsupervised contact with the parent.

Below we outline the method of case law extraction that was used to gather the factors in combination with the risk and protective factors identified in the literature to develop the Supervised Visitation Checklist.

(b) Methods for Caselaw Extraction

While previous studies have examined the types of reasons that have been provided to justify supervised access orders in Canadian case law, none of these
studies have been based on a systematic review using qualitative data extraction and using a grounded theory framework to assist in the development of the Supervised Visitation Checklist (SVC). Grounded theory is an approach to theory development that involves deriving constructs directly from the immediate data collected from the research at hand, rather than drawing on existing theory.\(^{44}\)

We chose Ontario case law to contextualize the development and piloting of the SVC checklist for three reasons: (1) Ontario has the highest number of supervised access decisions because of the number of sites available to children and their families; (2) there needed to be internal consistency and integrity for supervised access orders; and, (3) the checklist was piloted with mental health professionals and lawyers in Ontario based on the same language and meaning of supervised access.

(c) Data Analysis

Coding of the court decisions was performed using the qualitative software program NVivo Version 9.0 by transferring all unique cases into the program, reading each case, creating themes across the cases and then exploring patterns across the themes using a grounded theory methodological framework to code the reasons given by judges for making specific orders related to supervised parent-child contact. Using a constant comparison method, the data were continually examined until each theme reached saturated. That is, themes began to repeat themselves.

(d) Results

The search resulted in 305 judgments relevant to supervised access and exchanges. Cases were excluded if they were not relevant to supervised contact in child custody disputes and if they had insufficient information for meaningful examination. In total, 171 Ontario court cases from the years 2003–2010 were analyzed.

Consistent with the complex nature of custody and access disputes, and high conflict family situations, there are a variety of factors that influenced the decisions of judges to order supervised parent-child contact following separation and divorce. Table 1 displays the various reasons that necessitated an order for supervised contact, and whether supervision was facilitated via a government designated supervised access centre, an authorized facilitator (e.g., a relative, neighbor, etc.), child protection services (i.e., Children’s Aid Society), or an unidentified facilitator (e.g., a mutually agreed upon facilitator).

Reasons given to justify supervision orders were not mutually exclusive; in other words, the majority of cases featured a variety of reasons for ordering supervised parent-child relationships. However, some cases did not explicitly state the reason for a supervision visitation order. The most common factors for making decisions in favour of supervised contact included the presence of interparental conflict, domestic violence and various types of child maltreatment. A theme that sup-

---


\(^{45}\) Kelly, above note 43, n 2.
ports the legislative provision of the maximum contact principle46 but, may not always be in the child’s best interest.

<table>
<thead>
<tr>
<th>Reason for Supervised Access</th>
<th>Supervised Access Centre</th>
<th>Authorized Supervisor</th>
<th>Unknown Supervisor</th>
<th>Children’s Aid Society</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uncooperative Parties/Party Interference</td>
<td>22</td>
<td>17</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Domestic Violence</td>
<td>16</td>
<td>18</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Drug and/or Alcohol Abuse</td>
<td>14</td>
<td>18</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Mental Health Concerns</td>
<td>8</td>
<td>16</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Re-introduction</td>
<td>19</td>
<td>13</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Lack of Parenting Skills</td>
<td>11</td>
<td>8</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Criminal Behaviour</td>
<td>4</td>
<td>6</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Emotional Abuse</td>
<td>12</td>
<td>7</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Child Abduction Concerns</td>
<td>8</td>
<td>9</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Child Sexual Abuse</td>
<td>6</td>
<td>5</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Child Physical Abuse</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Child Refusal</td>
<td>2</td>
<td>5</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Child Neglect</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

46 Birnbaum and Chipeur, above note 7; Kelly, above note 43.
A predominant theme emerged that contrasted actual harm and the risk of harm when decisions were being made regarding the suitability of supervised access orders. Cases were organized based on whether harm had already occurred or whether this harm was expected to occur if a supervision order was not ordered. Risk of harm included: physical abuse, sexual abuse, emotional abuse, domestic violence, neglect, lack of parenting skills, and child abduction concerns. Results indicate that judges are more likely to order supervised access when there has been a demonstrated previous occurrence of harm compared to cases where there is the potential for harm to the child. Table 2 displays the types of harm cited in cases, and the frequency they occurred under actual harm or predicted harm.

Table 2. Types of harm cited in court orders related to supervised contact from 2003–2010

<table>
<thead>
<tr>
<th>Physical Abuse</th>
<th>Sexual Abuse</th>
<th>Emotional Abuse</th>
<th>Domestic Abuse</th>
<th>Neglect</th>
<th>Lack of Parenting Skills</th>
<th>Abduction Concerns</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>0</td>
<td>8</td>
<td>17</td>
<td>1</td>
<td>13</td>
<td>5</td>
<td>7</td>
</tr>
<tr>
<td>0</td>
<td>13</td>
<td>0</td>
<td>7</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>2</td>
</tr>
</tbody>
</table>

As Table 2 outlines, supervised access is most frequently ordered based on substantiated findings of: domestic violence\(^{47}\) (29%), emotional abuse\(^{48}\) (14%),...
physical abuse (14%) and lack of parenting skills (22%). Courts view supervised access as a serious intrusion into the parent-child relationship and appear hesitant to order supervision of access in the absence of such evidence. The decision in V. (S.J.) v. L. (J.G.) states that allegations of a party that are not substantiated by an official body, such as child protection services or the police, are generally not considered sufficient grounds for ordering supervised access. This could explain the finding that orders for supervised access are more frequently made based on actual occurrences of harm than on predictions of future harm.

The most common risk of harm found in these cases related to allegations of sexual abuse (45%). This is the only form of risk of harm where the prediction of future harm seemed to outweigh the actual occurrence of harm as a reason for ordering supervised access. For example, in Billingsley v. Billingsley, the father was convicted of sexual misconduct towards his 14-year-old stepdaughter and the Children’s Aid Society had provided supervised access between the father and his two sons, six and five years old, from the time charges were laid until conviction. Supervised access between the father and the boys was then ordered to occur at a designated supervised access centre even though there was no evidence that the father had harmed the two boys, or would harm them in the future, but supervised access was ordered as a cautionary measure based on predictions of future harm.

Cases ordering supervised contact due to a risk of harm related to sexual abuse allegations also seem to treat supervised access as a temporary safety precaution while allegations are in the process of being investigated. The courts’ hesitation in this regard was reflected in P.G. v. N.L., in which the judge temporarily ordered supervised contact pending the non-custodial parent’s criminal proceeding for sexual assault towards a different child — contact was ordered to take place at a designated supervised access centre because the parties could not agree on a relative or friend to supervise the visits. Similarly, supervised contact may be ordered in cases where a parent has been diagnosed with a potentially harmful sexual disor-
der,\textsuperscript{55} even if the parent has not been found to act inappropriately with the child in question.\textsuperscript{56}

### 3. ADDITIONAL FACTORS CONSIDERED FOR SUPERVISED VISITATION ORDERS

As previously stated, no formal set of factors exists for ordering supervised access in Ontario, the decision is left at the sole discretion of judges who may or may not draw on the empirical literature in their decision-making. In \textit{V. (S.J.) v. L. (J.G.)}, the court’s reasons state that supervised access must be considered as an option for parent-child contact prior to the termination of access, and that many of the most common factors considered by the courts in determining termination of access would apply to a consideration of supervised access.\textsuperscript{57} The following factors were cited as common reasons for requiring supervised parent-child contact:

1. Long-term harassment and harmful behaviours towards the custodial parent causing stress and/or fear in the child or parent;
2. A history of violence, unpredictable, or uncontrollable behaviour;
3. Alcohol and/or drug abuse that has been witnessed by the child or presents risk to the child’s safety and wellbeing;
4. Child maltreatment (abuse and/or neglect) during an access visit.
5. Extreme parental alienation resulting in custody reversals, with at times, no access orders to the formal custodial parent;
6. Ongoing severe denigration of the other parent;
7. Lack of, strained, or weak parent-child relationship between the non-custodial parent and the child;
8. Older children’s wishes and preferences for access.\textsuperscript{58}

Considerations of the potential benefits for maintaining parent-child relationships through supervised access should also be explored. The court suggests that, in some cases, supervised contact may help to do one or more of the following:

- Protect children from risk of harm; continue or promote the parent-child relationship; direct the access parent to engage in programming, counselling or treatment to deal with issues relevant to parenting; create a bridge between no relationship and a normal parenting relationship; and, avoid or reduce the conflict between parents and thus, the impact upon children.\textsuperscript{59}

Comparing the factors found across cases in Table 1 with the factors cited in \textit{V. (S.J.) v. L. (J.G.)} and \textit{Chartrand v. de Laat},\textsuperscript{60} there seems to be an overall consistency of the consideration of these most common factors. The social science

---


\textsuperscript{56} Mukhtar, above note 51.

\textsuperscript{57} VSJ, above note 9, at para 137.

\textsuperscript{58} Ibid, at para 135.

\textsuperscript{59} Ibid, at para 137.

\textsuperscript{60} 2008 CarswellOnt 6723, 63 R.F.L. (6th) 196 (Ont. S.C.J.) [De Laat].
literature recognizes these as important factors, but also recommends using a risk and benefit analysis. Notwithstanding the above, the majority of cases reviewed did not clearly articulate the factors relied on for ordering supervised parent-child contact; instead, the majority of cases focused on the general question of whether supervised contact was considered the ideal form of access to support “maximum contact” between parents and children in high-risk situations. Even in V. (S.J.) v. L. (J.G.), the court identified the principle of maximum contact as being highly significant in determining the best interests of the child for the purposes of deciding whether or not to issue an order of supervised access.

(a) Conditions attached to supervised access orders

As stated in V. (S.J.) v. L. (J.G.), supervised access is thought to be a way for an access parent to become involved in programming, counselling, or treatment for issues related to their ability to parent. In this respect, some supervised access orders have attached conditions for the access parent’s compliance, geared towards remediating the concern that resulted in the order for supervision with the ultimate aim of the parent eventually being able to achieve unsupervised access. The court stated:

An in depth psychiatric or psychological assessment of Mr. L.J.G. must be completed prior to his commencing treatment. If Mr. L.J.G. does not cooperate fully with such an assessment and follow up with the recommendations for treatment, consideration could be given to a termination of access.

In Chartrand v. de Laat, the father had a history of missed supervised access visits, and the judge ordered that access was to be suspended if the father missed three consecutive access visits. In other cases, parents have been required to complete an anger management program, to obtain treatment for mental health issues or other counseling, or to attend parenting skills training. For example, in Frid v. Frid the court ordered the mother to take her medication, attend medical appointments and sign release forms so the father could access her medical records.

61 Birnbaum and Alaggia, above note 7.
62 VSJ, above note 9, at paras 122–7.
63 VSJ, above note 9, at para 137.
64 Ibid., at para 147.
65 De Laat, above note 60.
As well, in *Hewitt v. Hewitt* the court ordered supervised access to take place until the children had seen a therapist who would provide a recommendation regarding further access arrangements. Other conditions relate to depositing money or travel documents at the supervised access centre, or an order that parties are not allowed to obtain travel documents for the child or remove the child from a certain jurisdiction. This is mostly the case if child abduction concerns have been raised. Frequently, courts state explicitly in the order that parties must refrain from drug- or alcohol use prior to the access taking place and refrain from discussing the parental conflict or the court case with the child.

**(b) Considerations for Informal Authorized Supervision**

There are many orders which require informal access supervisors to be subject to the approval of the custodial party or the child, or that designate the custodial party to act as the supervisor. Orders pending the approval of the custodial party are either to approve of a family member supervising access, or for a “third party” such as a child’s counsellor in *D. (S.) v. O. (K.)* or *Xourafas v. Xourafas*, women’s shelter staff in *Campbell v. Campbell*, a private supervisor as in *Imamura v. Remus*, a social worker in *Islam v. Rahman*, or other parties who are left

---

72 2007 ONCJ 224, 2007 CarswellOnt 3174 (Ont. C.J.).
unsupervised. In cases involving supervision by the custodial parent, the parents consented to the custodial parent acting as the authorized supervisor and the parents were able to demonstrate a history of being able to negotiate these arrangements. The most common type of informal supervisor across the cases involved a family member.

There is no formal criterion established for assessing the qualifications of a supervisor not designated by the government to perform supervision of parent-child relationships. In general, designated informal supervisors are most often subject to the approval of the custodial parent where he/she can demonstrate that the supervisor is capable of supervising the parent-child relationship, the supervisor has knowledge of reasons for the supervision and the supervisor is considered responsible enough to ensure the child is protected. In contrast, informal supervision is often not ordered when the intended supervisor (i.e., relative, friend, etc.) is deemed not capable of supervising the parent-child relationship, if he or she is unable to control the behaviours of the non-custodial parent, or is unable to intervene to address the problem behaviours of the access parent.

The qualifications of an individual to act as a capable supervisor has not been distilled in the cases as there remains no established criteria in this area and little consideration given by judges. The majority of the cases where informal supervisors were used did not provide sufficient explanation as to why an individual was

---

77 See e.g. Balzer v. Balzer, 2003 CarswellOnt 6398, [2003] O.J. No. 1975 (Ont. S.C.J.) [Balzer]; Frid, above note 68; Shamli, above note 53; and Andrade, above note 67. Walsh v. Moore (above note 70) did not have supervision by the custodial parent occurring before the order was issued, as those access attempts did not come to fruition. AM v. SM (above note 41) may fall into this category, but it is not being counted in this analysis.

selected as a supervisor rather than a designated supervised access centre, or why that individual would be a suitable supervisor for the given situation. Both positive and negative considerations for the qualifications of informal supervisors have been suggested. First, the informal supervisor’s knowledge and familiarity with the access parent’s circumstances was a consideration in some cases. In B. (R.R.) v. J. (R.L.), the judge stated that the court was satisfied that the family member of the access parent had been adequately assessed and was deemed to be knowledgeable and responsible enough to ensure that the children’s best interests would be protected, given that the family member had been educated regarding the access parent’s mental illness. In LAG, Justice Coats examined the capability of the respondent father’s family members to act as supervisors, and found that while they were “intelligent, caring people”, they had not had enough recent contact with the respondent to be aware of his current circumstances or to know him as he was at the time of the court hearing.

Some of the individuals deemed incapable of providing informal supervision were considered unable to control or address the problem behaviour of the access parent. In the case of Prosser-Blake v. Blake, the applicant argued that the previous supervisors, the paternal grandparents, were inappropriate supervisors who could not adequately control the behaviours of the respondent father. Evidence was presented that the grandparents did not intervene when domestic violence was occurring between the couple, who were living in the grandparents’ basement at the time; that they did not prevent the father from attending the door when the child was being dropped off for access; and that they did not stop the father’s verbal abuse. Similarly, in Chartrand v. De Laat, the father nominated a friend to supervise the visits, or in the alternative, a family member of the mother. The court found the friend to be an inappropriate supervisor, as he did not seem to know of or acknowledge the father’s drug use or mental health issues, and the family members did not wish to supervise the access visits. Wilson v. Keyes identified that the respondent father’s sister was an inadequate supervisor who was unable to deter his problematic and emotionally abusive behaviour, which continued throughout her supervision. The respondent father suggested his mother and sister as access supervisors in R.A. v. J.R., however the court found that it had no confidence in the abilities of both parties to control the father’s volatile behaviour, to recognize his drug abuse, or to remain neutral, and that it was unlikely the father would accept redirection from them. The judge found in Lee v. Wright that the paternal grand-

82 Ibid, at paras 23–5.
83 De Laat, above note 60.
mother’s protective nature and evasiveness regarding the father’s alcohol abuse and anger issues would make her an unsuitable supervisor. In the majority of cases that included consideration of an informal supervisor, it was the responsibility of the opposing side to bring forth evidence to suggest that the proposed supervisor would be incapable of performing the duties. There was no evidence of the courts requesting an evaluation of the potential informal supervisor prior to supervising the access between the children and the parents.

(c) Location of Supervision Conducted by Informal Supervisors

Public places are considered by judges to be a form of supervision when exercising access visits or exchanges, and there were a fair number of orders made for access to be exercised generally in public places, at police stations or fire stations, or at Tim Horton’s or McDonald’s restaurants. Public places are assumed to minimize the risk posed to the child and/or the custodial party by reason of the fact that other people are present, and that such places are neutral in the sense that they bear no attachment to either party. Restaurants are viewed as more “child-friendly” environments, and could be viewed as a form of “ice breaker” to begin an access visit.

(d) Factors Considered for Unsupervised Access

In examining the factors judges considered when making decisions granting unsupervised parent-child contact, an informal set of factors emerged from the cases. Most often, unsupervised access was ordered when there was a lack of evidence to substantiate claims of risk of harm to the children which would otherwise have necessitated supervised access, or where there was evidence directly disproving

89 For McDonald’s, see H. (J.E.) v. D. (W.V.), 2004 CarswellOnt 2087, [2004] O.J. No. 2130 (Ont. S.C.J.); and Whitlock, above note 72. For Tim Hortons, see Richardson v. Lafrance, 2005 ONCJ 299, 2005 CarswellOnt 7024 (Ont. C.J.); Hameed v. Hameed, 2006 ONCJ 274, 2006 CarswellOnt 4653, [2006] O.J. No. 3109 (Ont. C.J.); Larabie, above note 79; and Geremia v. Harb, 2007 CarswellOnt 446 (Ont. S.C.J.); Parkes v. Zayachkowski, 2005 ONCJ 106, 2005 CarswellOnt 1233 (Ont. C.J.) had access exchanges occurring at a Mac’s Milk Convenience Store for the sole reason that security cameras were present when the access centre was not open. Walsh v. Moore (above note 70) had access occurring at an unidentified restaurant.
ing such claims. The evidence used to assess the applicability of supervised access was evaluated on a case-by-case basis, with the requesting parent bearing the burden of proving the necessity of supervised parent-child contact on a balance of probabilities. This is illustrated by Justice Sherr in Hussain v. Naz:

The party who seeks to reduce normal access will usually be required to provide a justification for taking such a position. The greater the restriction sought, the more important it becomes to justify that restriction.

Unsupervised access was ordered in cases where the non-custodial parent had demonstrated prior success with supervised access or with a graduated access schedule; evidence of good parenting skills or of a parent’s strong relationship with the child were also considered. A parent’s commitment to pursuing access time was cited in several cases as another factor that could support an order of unsupervised contact. Parental cooperation also seemed to carry significant weight with judges making orders for unsupervised access, as well a parent’s agreement to adhere to abstention from drugs or alcohol and/or to undergo routine drug testing.


91 Hussain, above note 70, at para 16.

92 Ibid.


94 Balzer, above note 78; Okatan, above note 94; Mindzak, above note 79; Hussain, above note 67.

95 For cases involving abstention from drugs/alcohol and testing, see Balzer, above note 78, and Kainz v. Potter, 2006 CarswellOnt 3703, 33 R.F.L. (6th) 62 (Ont. S.C.J.).
Some judges did not consider supervised access centres to be suitable for parent-child contact, especially for older children. In particular, some judges mentioned that supervised parent-child contact at a supervised access centre could negatively impact the child’s perception of the relationship with the parent, and would lead to the child believing that the non-custodial party was a “bad parent” because access had to take place at the facility.

Although a parent’s past conduct was considered when assessing the need for supervised access, the parent’s demonstrated commitment to the child and to overcoming intrapersonal difficulties seemed to weigh heavily on the judges’ decisions to support unsupervised access, even if other factors undermined the reliability of the person’s commitment (such as not following through with child support payments). Past conduct is considered only inasmuch as it is relevant to a person’s ability to act as a parent and as it relates to violence or abuse of the child or par-


97 *Larabie*, above note 79.

This principle has been viewed as ambiguous and open to interpretation by the courts, despite the terms of the legislation.

Costs also impacted the access arrangement if parties claimed that they were unable to afford the costs of making arrangements with a private access facility or a therapeutic supervised service. The alternative in these cases was often an order of unsupervised access, rather than using the publically funded supervised access centre in the parties’ local jurisdiction.

### (e) Factors Considered for No Access

Courts are cautious in denying access altogether. The overall assumption is that access to both parents is important for a child’s healthy development, and there must be very compelling circumstances for courts to make an order of no contact. It is clear from this analysis that the courts do not terminate access lightly, as only 16 of the 171 judgments examined included a termination of access.

Many factors are taken into account by judges when terminating access. In *Biraben v. Pelland*, Justice Smith notes that:

> What is required to deny access is a finding that there will be no benefit to the child, which requires an examination of the individual circumstances of each case. Given the statutory framework for access decisions, the child should be the exclusive focus of the Court’s attention.

The following summary of Justice Blishen in *V. (S.J.) v. L. (J.G.)* of the case law pertaining to termination of access is cited in several other decisions and provides a useful framework for examining decisions for termination of access. Ac-

---

99 Subsections 24(3) and (4) of the *Children’s Law Reform Act*, above note 3, deal with past conduct, violence and abuse:

(3) A person’s past conduct shall be considered only,

(a) in accordance with subsection (4); or

(b) if the court is satisfied that the conduct is otherwise relevant to the person’s ability to act as a parent.

(4) In assessing a person’s ability to act as a parent, the court shall consider whether the person has at any time committed violence or abuse against,

(a) his or her spouse;

(b) a parent of the child to whom the application relates;

(c) a member of the person’s household; or

(d) any child.

100 *Andrade*, above note 67; *Weiler*, above note 53.

101 *Children’s Law Reform Act*, above note 3, ss 24(4) and (5), as amended by SO 2006, c 1, s 3(1).


103 Above note 9.
According to Justice Blishen, the following factors must be considered in determining whether access should continue or be terminated:

1. Long term harassment and harmful behaviours towards the custodial parent causing that parent and the child stress and or fear.
2. History of violence; unpredictable, uncontrollable behaviour; alcohol, drug abuse which has been witnessed by the child and/or presents a risk to the child’s safety and well being.
3. Extreme parental alienation which has resulted in changes of custody and, at times, no access orders to the former custodial parent.
4. Ongoing severe denigration of the other parent.
5. Lack of relationship or attachment between non-custodial parent and child.
6. Neglect or abuse to a child on the access visits.
7. Older children’s wishes and preferences to terminate access.\(^{104}\)

Table 3 outlines the reasons for termination of access that emerged through analysis of the court orders by number of cases, including the factors mentioned above. The number of cases based on reasons for termination in Table 3 does not match the total number of cases where access was terminated, given that many cases appeared more than once within these factors if several reasons for termination were provided.

<table>
<thead>
<tr>
<th>Reasons</th>
<th># Of Cases</th>
<th>Access Suspended</th>
<th>Access Terminated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access terminated — total number of cases</td>
<td>16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Access suspended pending trial or third party reports — total number of cases</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long-term harassment and harmful behaviours towards custodial parent</td>
<td>9</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>History of violence, unpredictable, uncontrollable behavior</td>
<td>8</td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>Drug and/or alcohol abuse, mental health concerns</td>
<td>3</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Extreme Parental Alienation which has resulted in change of custody in the past</td>
<td>0</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Ongoing severe denigration of the other parent</td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>

\(^{104}\) Ibid, at para 135.
<table>
<thead>
<tr>
<th>Reasons</th>
<th># Of Cases</th>
<th>Access Suspended</th>
<th>Access Terminated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of relationship or attachment between non custodial parent and child</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Neglect or abuse to a child on access visits</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Older children’s wishes to terminate access</td>
<td>6</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>No disruption of status quo</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Child Abduction Concerns</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Risk of Harm — Sexual Abuse</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>

The following are two examples of situations in which a court may deny access. In *Kemp v. Helfrich*, following a history of domestic violence, criminal behaviour, incarceration, breached court orders, breached orders of no contact with the mother and the children, incidents of the father enticing the child to run away from home, and a series of supervised access visits not exercised by the father, the court finally decided to terminate access, with a consideration for the father to reapply for access with consent of the mother.105 Similarly, in *Azimi v. Mirzaei*, the father had demonstrated a history of inconsistent behaviour, domestic violence, threats towards the family, and financial recklessness. The court found a lack of concern on part of the father for the best interests of his daughter. These concerns, together with the outright refusal of the 10 year old child and the fact that the child was found to be well cared for by the mother, led the court to conclude that the father should not be granted any access.106

Continued harassment of the other party and a lack of remorse or insight were the most common reasons for the courts to conclude that there should be no access.107 Court orders of termination or suspension of access were more likely to occur if the conduct of a party had been such that it significantly impaired the relationship with the child, or if the courts found that the party was maliciously sabotaging the relationship, harassing the other party, or neglecting to comply with court orders. Lack of demonstrated interest in a relationship with the child, non-compliance with orders of supervised access, and motions for access solely because of the custodial party’s application for child support were also factors contributing to a court’s decision not to grant access to a parent.108 Termination of access was also ordered in cases where the non-custodial party did not exercise supervised ac-

---

105 *Kemp*, above note 47.
106 *Azimi*, above note 47.
*McIntosh v. McIntosh*, 2006 ONCJ 344, 2006 CarswellOnt 5694 (Ont. C.J.).
cess but instead exercised no access at all because they did not agree to access being supervised, usually in the context of domestic violence or abuse.\footnote{LAG, above note 81.}

Interestingly, in one case, the judge found that the supervised access centre was not safe enough to offer protection to the child in light of the mother’s history of mental instability, child abduction and attempted suicide by drinking bleach in the vicinity of her child, and therefore the judge terminated all access.\footnote{Wozniak, above note 79.} Child refusal is another main reason why supervised access is suspended or denied.\footnote{Coborn, above note 53; Islam, above note 77.}

Time lapse in parent-child contact is another factor that can influence a court’s decision to order no access. Judges were more likely to terminate access in cases where there had been a prolonged period of no contact between the non-custodial parent and the child such that the parent no longer had a relationship with the child, especially if the child no longer knew the parent and otherwise lived in a stable environment and did not want to see the parent father. In these cases, it was determined that there was a foreseeable risk that contact would be irregular and could potentially harm the child.\footnote{Wozniak, above note 79.}

A custodial party’s unwillingness to facilitate access is normally considered as a factor in ordering supervised access, as judges generally find that it is in the best interest of children to know both parents even under difficult circumstances, and that it is the responsibility of both parents to facilitate this contact. However, this is not consistently the case. In 

\textit{Goodman v. Browne}, Justice Spence found:

\begin{quote}
Here, not only do the children, whom I find to be intelligent and well adjusted, refuse to see their father, but further their mother absolutely refuses to help them in fostering a relationship with the applicant. In these circumstances, this court has no alternative but to refuse the application for access.
\end{quote}

In addition, it is necessary to highlight the issue of suspension of access. Suspension of access is qualitatively different from termination of access in that there is the prospect of access being reinstated upon completion of a task or following the resolution of a trial. Courts might suspend access pending trial, pending a custody evaluation report, or for other reasons if it is deemed that there are serious safety issues or that access may cause unnecessary disruption to a child’s life if the outcome of the trial is unclear.\footnote{Shoval v. Shoval, 2005 CarswellOnt 2383, [2005] O.J. No. 2401 (Ont. S.C.J.) [AS v. RS]; Doell v. Cassar, 2009 CarswellOnt 7217, [2009] O.J. No. 4997 (Ont. S.C.J.).}

Even when terminating access, courts are reluctant to cut every connection between the non-custodial party and the child. An order for termination of access usually includes the option to reapply for access under certain circumstances, such as approval by the custodial party or a change in circumstances. In \textit{Benaglia v. Benaglia}, for example, the court ordered no access by the father until he completed...
an anger management program, ceased to antagonize the mother, and demonstrated genuine commitment to pursuing regular involvement in his son’s life.\footnote{Benaglia, above note 67.}

4. DISCUSSION

The factors found in the social science literature and in the case law provide the context for the development of the Supervised Visitation Checklist (SVC); namely, to allow for greater reliability and validity when decisions are made for supervised access or not. These factors are:

1. Adult Factors (compliance with court orders/agreements; substance use; mental health concerns; sexual offences);
2. Risk of Harm to Child (exposure to domestic violence, exposure to interparental conflict, child physical abuse, child sexual abuse, child abduction concerns, child neglect);
3. Risk of Harm to Parent (domestic violence, stalking and intimidation, restraining orders);
4. Parent-Child Relationship (parenting abilities, parent-child contact interfering behaviours such as stalling being late, etc., and

We argue that in the absence of a reliable and valid checklist to assist mental health professionals, lawyers, and judges in making assessments and decisions regarding supervised parent-child contact, the best interests of the children involved may be at risk. In part this is due to: (1) the conflicting nature of best interest test and the value of maximum contact of children with both parents; (2) the complexity of determining the need for supervised contact based on actual occurrences of harm versus the risk of potential future harm; and, (3) a lack of clear guidelines regarding the factors that could assist the courts in making decisions regarding the potential benefits and risk of harm when ordering supervised parent-child contact.

(a) Limitations

Although the case law provided key considerations regarding the factors to be examined, there are some limitations. First, the level of detail provided in the decisions varied greatly, making it difficult in some instances to extract the necessary relevant information. Second, case law is based only on written decisions that went to trial, and is not representative of all instances where supervised access may have been ordered (e.g. on consent orders, self-referrals, access exchanges, etc.). Cases that proceed to trial are considered the most litigious and typically are high conflict cases that require a judicial determination. As a result, the case law used to assist in the development of the SVC may not be representative of all cases that involve supervised parent-child contact; however, it does address the most serious risk factors identified in the social science literature.
5. IMPLICATIONS AND FUTURE DIRECTIONS

A risk-based screening checklist that can be used to consider the risk factors that are known to be associated with the increased risk of harm to children and parents following separation\textsuperscript{116} can assist the courts when making decisions regarding supervised access. Using a reliable and valid checklist that considers the modeling of interrelated social and legal factors such as: (1) individual factors of the parents and children; (2) family factors (e.g., conflict, violence and abuse); (3) community factors including the involvement with the courts; and, (4) factors at the societal level (e.g., case law, legislation and cultural considerations) while highlighting their reciprocal interactions can be of benefit in family law decision-making.\textsuperscript{117}

Framing the evidence within a transactional model (i.e., clinical and legal) moves away from an oversimplified and uni-dimensional decision-making process to a more comprehensive approach that identifies levels of risk when supervised visitation is being considered as an option. This approach more fully captures the various factors that can influence the potential benefits and limitations of supervised parent-child interactions following separation and divorce. Moreover, the transactional model also supports the claim that the identified factors associated with the use of supervision orders found in the case law are not mutually exclusive, and that there are significant overlaps among these risk factors.

The next step is to focus on piloting and testing the use of the SVC risk-based checklist in cases where mental health professionals are assessing and making recommendations for supervised access and judges are ordering supervised access. The major goal of the pilot would be to validate the checklist and aid in understanding what risk factors are present or absent in these cases in order to address the safety concerns for children and families while facilitating on-going contact between children and both parents.

\textsuperscript{116} Saini, Van Wert, and Gofman, above note 7.

Appendix A — Supervised Visitation Checklist (SVC) Saini & Newman 2014

<table>
<thead>
<tr>
<th>Case Name:</th>
<th>Name of Reporter:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case Number:</td>
<td>Profession of Reporter:</td>
</tr>
<tr>
<td>Date Completed:</td>
<td>Stage of Process:</td>
</tr>
</tbody>
</table>

Name of Parent A (Applicant): ____________________________
Name of Parent B (Respondent): ____________________________

<table>
<thead>
<tr>
<th>Child’s Name</th>
<th>Age of Child</th>
<th>Gender of Child:</th>
<th>Parents’ relationship to child</th>
<th>Parent A</th>
<th>Parent B</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>(a)</td>
<td>□ Male □ Female</td>
<td>(a):</td>
<td>(a):</td>
<td>(a):</td>
</tr>
<tr>
<td>(b)</td>
<td>(b)</td>
<td>□ Male □ Female</td>
<td>(b):</td>
<td>(b):</td>
<td>(b):</td>
</tr>
<tr>
<td>(c)</td>
<td>(c)</td>
<td>□ Male □ Female</td>
<td>(c):</td>
<td>(c):</td>
<td>(c):</td>
</tr>
<tr>
<td>(d)</td>
<td>(d)</td>
<td>□ Male □ Female</td>
<td>(d):</td>
<td>(d):</td>
<td>(d):</td>
</tr>
</tbody>
</table>

Special Needs of Children

<table>
<thead>
<tr>
<th>(a)</th>
<th>(b)</th>
<th>(c)</th>
<th>(d)</th>
</tr>
</thead>
</table>

Most recent visitation / access arrangement (at the time of completing the checklist)

- [ ] Sole custody to the Parent A
- [ ] No access with Parent A or B
- [ ] Sole custody to the Parent B
- [ ] Access with Parent A or B supervised by professional
- [ ] Joint legal custody - children in Parent A’s care
- [ ] Access with Parent A or B supervised by family member
- [ ] Joint legal custody - children in Parent B’s care
- [ ] Exchanges supervised by professional
- [ ] Joint physical custody
- [ ] Exchanges supervised by family member
- [ ] Other (please specify): □ Both access and exchanges are unsupervised

Additional Comments: ____________________________________________

1. ADULT FACTORS

1.1 Compliance with orders / agreements
- [ ] No concerns regarding compliance
- [ ] Parent alleges that the other is not compliant with orders / agreements
- [ ] Verified history of non-compliance with orders / agreements
  - [ ] 0
  - [ ] 1
  - [ ] 2
  - [ ] 3

1.2 Substance Use
- [ ] No concern regarding substance use / abuse
- [ ] A parent alleges that the other has a history of substance use / abuse
- [ ] A parent has a verified history of substance abuse problems
  - [ ] 0
  - [ ] 1
  - [ ] 2
  - [ ] 3

1.3 Mental Health
- [ ] No mental health concerns of either parent
- [ ] A parent’s untreated mental health issue
- [ ] A parent’s untreated mental health problem interferes with parenting
- [ ] A parent’s untreated mental health problem is related to a history of harmful behaviours
  - [ ] 0
  - [ ] 1
  - [ ] 2
  - [ ] 3

1.4 Sexual Offences
- [ ] No history of sexual offences by a parent
  - [ ] 0

Comment
### 2. RISK OF HARM TO CHILD

#### 2.1. Exposure to domestic violence

<table>
<thead>
<tr>
<th>Comments</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>The child has not been exposed to domestic violence</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A parent alleges that the child has been exposed to domestic violence</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified child exposure to domestic violence</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified child harmed by exposure to domestic violence</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

#### 2.2. Exposure to interparental conflict

<table>
<thead>
<tr>
<th>Comments</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>The child has not been a witness to parental conflict</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A parent alleges that the child has been a witness to parental conflict</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified child witnessed parental conflict</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified child continues to witness parental conflict</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

#### 2.3. Child physical abuse

<table>
<thead>
<tr>
<th>Comments</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>The child has not been physically abused</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A parent alleges the child(ren) has been maltreated by other parent</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified previous child physical abuse by a parent</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Current / ongoing child physical abuse by a parent</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

#### 2.4. Child sexual abuse

<table>
<thead>
<tr>
<th>Comments</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>No concerns of child sexual abuse</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A parent alleges the child(ren) has been sexually abused by other parent</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified child sexual abuse by a parent</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified current / ongoing child sexual abuse by a parent</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

#### 2.5. Child abduction concerns

<table>
<thead>
<tr>
<th>Comments</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>No concerns for child abduction</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A parent alleges that the other made threats to abduct the child</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified threats to abduct the child</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified attempt(s) to abduct the child</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

#### 2.6. Child neglect

<table>
<thead>
<tr>
<th>Comments</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>No concerns of child neglect</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A parent alleges other parent has neglected the child</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified current/on-going child neglect by a parent</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

### 3. RISK OF HARM TO PARENT

#### 3.1. Domestic violence

<table>
<thead>
<tr>
<th>Comments</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>No concern regarding domestic violence</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A parent alleges domestic violence by the other parent</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified previous incidents of domestic violence</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified ongoing domestic violence</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

#### 3.2. Stalking and intimidation

<table>
<thead>
<tr>
<th>Comments</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>No concern of stalking and/or intimidation</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>A parent alleges that other parent has made threats/intimidated/stalked</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified historical threats/intimidation/stalking behaviours</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified current / on-going threats/intimidation/stalking behaviours</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

#### 3.3. Restraining orders

<table>
<thead>
<tr>
<th>Comments</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>No previous / current restraining orders</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Previous/current restraining orders are being followed</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified previous restraining orders have been breached</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Verified current/on-going restraining orders breached</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

### 4. PARENT-CHILD RELATIONSHIP

#### 4.1. Parenting abilities

<table>
<thead>
<tr>
<th>Comments</th>
<th>0</th>
</tr>
</thead>
<tbody>
<tr>
<td>No concerns regarding parenting ability</td>
<td>0</td>
</tr>
</tbody>
</table>
A parent alleges that the other parent lacks parenting skills 1
Verified lack of parenting ability by a parent that creates risk to child 2
Verified on-going lack of parenting ability that creates risk to child 3

4.2 Parent-child contact

<table>
<thead>
<tr>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consistent and regular parent-child contact 0</td>
</tr>
<tr>
<td>A parent has had irregular contact with the child 1</td>
</tr>
<tr>
<td>There has been a substantial break in the parent-child contact 2</td>
</tr>
<tr>
<td>There has been no parent-child contact in at least 6 months 3</td>
</tr>
</tbody>
</table>

4.3 Parent-child contact interfering behaviours (stalling, late, etc.)

<table>
<thead>
<tr>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>No parent-child contact interfering behaviours 0</td>
</tr>
<tr>
<td>A parent alleges parent-child contact interfering behaviours 1</td>
</tr>
<tr>
<td>Verified past parent-child contact interfering behaviours 2</td>
</tr>
<tr>
<td>Verified current or on-going parent-child contact interfering behaviours 3</td>
</tr>
</tbody>
</table>

5. CHILD PREFERENCES

<table>
<thead>
<tr>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child expresses/displays no concerns about contact with either parent 0</td>
</tr>
<tr>
<td>Child expresses/displays discomfort towards a parent 1</td>
</tr>
<tr>
<td>Child has displayed/expressed resistance to contact with a parent 2</td>
</tr>
<tr>
<td>Child displays/expresses not wanting to have contact with a parent 3</td>
</tr>
</tbody>
</table>

6. SCORING

Scoring of the SVC is calculated by adding the sum of scores for each question to come up with a total SVC risk score. Each score represents the same numerical value. That is: scores of 0-6, Scores of 1-4, Scores of 2-4, Scores of 3-6.

Please add up the total SVC score.

Based on low risk scores (0-6), unsupervised access or supervised exchanges may be recommended, especially if factors are limited to adult conflict during exchange.

Based on medium scores (7-17), access or exchanges supervised by a professional may be recommended, especially if the child remains fearful of the non-custodial parent. Based on high scores (18+), supervised access, no access or a temporary period of no contact may be recommended.

To provide time for the non-custodial to receive needed interventions to remediate factors that are creating the child risk of harm.

Although a range of low - moderate – high is provided to consider the combination of all factors, it may take the presence of only one factor to determine the need for supervised access by a professional specializing in supervised access services. For example, the presence of a parent convicted of sexual abuse against a child may be in itself a significant factor to decide supervised access.

<table>
<thead>
<tr>
<th>SVC Score</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Risk (0-6)</td>
<td></td>
</tr>
<tr>
<td>Moderate (7-17)</td>
<td></td>
</tr>
<tr>
<td>High (18+)</td>
<td></td>
</tr>
</tbody>
</table>

6.2 List all factors that override the risk score:

- Escalating violence/abuse/threats to parent
- High probability of harm to child (sexual, emotional, physical, neglect)
- Period of no contact suggests high probability of stress for child if contact unsupervised
- High incidences of parent interference (sabotage, brainwashing, manipulation)
- Special needs of parent/child require additional support
- Criminal activity that poses a risk to the child (historical or current). Specify:
## 7. RECOMMENDATIONS

### 7.1 Custody
- [ ] Sole custody to Parent A
- [ ] Sole custody to Parent B
- [ ] Joint legal custody - children in Parent A’s care
- [ ] Joint legal custody - children in Parent B’s care
- [ ] Joint physical custody (joint parallel parenting)
- [ ] Other (Specify) ____________

### 7.2 Access
- [ ] No access with Parent ( )
- [ ] Access with Parent ( ) supervised by professional family member
- [ ] Exchanges supervised by professional family member
- [ ] Both access and exchanges are unsupervised

### 7.3 Details of Custody and Access Arrangements


### 7.4 Services for Caregivers

<table>
<thead>
<tr>
<th>Parent A</th>
<th>Parent B</th>
<th>Comments:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parenting skills training</td>
<td>Parenting skills training</td>
<td>____________</td>
</tr>
<tr>
<td>Anger management</td>
<td>Anger management</td>
<td>____________</td>
</tr>
<tr>
<td>Substance abuse treatment</td>
<td>Substance abuse treatment</td>
<td>____________</td>
</tr>
<tr>
<td>Counselling/therapy</td>
<td>Counselling/therapy</td>
<td>____________</td>
</tr>
<tr>
<td>Psychological assessment</td>
<td>Psychological assessment</td>
<td>____________</td>
</tr>
<tr>
<td>Parent-child therapy</td>
<td>Parent-child therapy</td>
<td>____________</td>
</tr>
<tr>
<td>Other (Specify) ____________</td>
<td>Other (Specify) ____________</td>
<td>____________</td>
</tr>
<tr>
<td>Other (Specify) ____________</td>
<td>Other (Specify) ____________</td>
<td>____________</td>
</tr>
</tbody>
</table>

### 7.5 Services for Children (place numbers next to child to correspond with services)

<table>
<thead>
<tr>
<th>Action</th>
<th>Person Responsible</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ] Assessment with recommendations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] Return to court</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] Mediated agreed settlement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] No monitoring. Explain:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] Other (Specify)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
 Identified Information and History Section

1. **Case Name** refers to the file name. For example Smith vs. Jones. For the purposes of this Pilot, it refers to the name provided on the front page of the case study.

2. **Case Number** refers to the file number, provided on the front page of the case study.

3. **Date Completed** refers to the current date (today) on which you have completed the Checklist.

4. **Name of Reporter** refers to your name, as the professional completing the Checklist.

5. **Profession of Reporter** refers to your professional designation, as the person completing the Checklist (i.e. Clinical Psychologist, Custody Evaluator, Mediator, Supervised Access Coordinator, etc.).

6. **Stage of Process** refers to the stage of the court process at the time you have completed the Checklist (i.e. case at first appearance, in mediation, in assessment, at trial).

7. **Parent Information** refers to the legal custodians’ names and their filing position as it particularly relates to the child. The term Parent is used as opposed to Party. A Parent could be a grandparent or any other adult seeking custody of and/or access to the children. If there are multiple Parents on either part, use the space below for Parent A or Parent B.

8. **Child’s Name** includes first and last name.

9. **Age of Child** refers to the age in years and months (i.e. 10 yrs. 2 mo.) at the time you have completed the Checklist.

10. **Gender of Child** refers to the male and female demographic categories. If you indicate “other”, please put alternate in the space provided for Male or Female.

11. **Parent’s Relationship to Child** refers to the parental relationship of the adult to the child(ren) (i.e. biological). This relationship may differ for different children within the family.

12. **Special Needs of Child(ren)** refers to any identified physical and emotional needs of child(ren), including mental health problems, behavioural issues, allergies, medications, disabilities or special scheduling issues due to appointments or lessons. In other words, any child focused considerations that might impact on custody and access issues.

13. **Most Recent Custodial and Visitation/Access Arrangement** (at the time of completing the checklist) refers to the custodial arrangement in place and the type of contact between the child and the adult parties.
SVC Scoring:
The SVC uses a weighted scoring method to indicate a situation’s level of risk in order to provide recommendations for supervised or unsupervised access. For each dimension, 0 indicates the Least Amount of Risk, while 3 indicates the Most Amount of Risk.

Scores of 0 = 0
Scores of 1 = 1
Scores of 2 = 4
Scores of 3 = 6

1. Adult Factors

1.1 Compliance with Orders or Agreements
Compliance refers to the parties following the terms of the order or parenting plans.

1.2 Substance Use
This category refers to the use of drugs, alcohol, prescription and non-prescription drugs.
Abuse problems could include any substance use problematic behaviours, such as drinking and driving, being intoxicated/impair while caring for children, etc.

1.3 Mental Health
Issues around mental health can include but are not limited to diagnosed or undiagnosed mental health issues, psychiatric problems, etc.
Individuals’ compliance with treatment, history of treatment, and current treatment regimen are to be considered. However, the presence of a mental health issue does not automatically indicate a problem or heightened risk. Only if such condition is left untreated, it then becomes an issue that could potentially lead to risks for the children.

1.4 Sexual Offences
This area refers to any type of sexual offence activity or history of such sexual activities, including charges of a sexual nature as well as sexual disorders.
Examples of offences may include internet pornography, public offences, sexual offences against another child, or sexual assault against other adults.
This risk assessment also aims to include any verified untreated sexual disorders as well as ongoing and substantiated sexual offences/behaviours that may or may not be controlled.
2. Risk of Harm to Child

2.1 Exposure to Domestic Violence

This dimension includes witnessing, hearing, and/or being the subject of violence and/or behaviours demonstrating the likelihood of domestic violence (physical, emotional, financial, sexual, etc.)

2.2 Exposure to Interparental Conflict

Aims to capture the enduring interparental conflict. It refers to the child who continues to witness ongoing conflict. Interparental conflict can manifest in person, over the telephone, or through other methods.

2.3 Child Physical Abuse

This dimension refers to the harm committed by any form of maltreatment and/or physical abuse against a child by a caregiver or a person in a caregiving role, such as being hit, beaten, kicked, or being hurt physically in any way. Previously verified incidents of child physical abuse refer to any reports from an organization corroborating or validating the occurrence of such an event (i.e. Children Aid Society and/or police reports)

2.4 Child Sexual Abuse

Includes any incident of child sexual abuse. Verified incidents of child sexual abuse refer to any proof of attempt(s) or prior sexual abuse by an adult, as seen in a police report, or corroborated by a neutral third party. Sexual abuse refers to all forms of sexual activities or behaviours including penetrative and non-penetrative forms, sexual molestation/touching, unwanted sexual experiences and/or forced intercourse.

2.5 Child Abduction Concerns

It refers to any concerns or existent threats that could potentially indicate a child abduction risk. The “Verified threat(s)/attempt(s) to abduct the child” makes reference to any prior proof of attempt(s) or abduction(s) as seen in a police report, or corroborated by a neutral third party.

2.6 Child Neglect (inability to meet child’s physical needs/supervision)

This dimension aims to draw attention upon parents’ inability to provide and/or satisfy child(ren)’s physical, emotional and ongoing living needs. Examples may include an unstable living environment, neglect, lack of childcare and subsequent lack of children) supervision. Any reports from organizations, CAS and police, or corroborated evidence form a neutral third party, can validate previous claims

3. Risk of Harm to Parent

3.1 Domestic Violence

This category refers to any type of violence/abuse: physical, emotional (i.e. verbal or physically threatening behaviour, isolation, threats of harm to children
and/or pets etc.), sexual or financial (i.e. withholding funds, funds as threat, etc). Financial stressors created via financial abuse and ultimately leading to problems, could also be considered (i.e. financial problems in getting services)

3.2 Stalking and Intimidation

Stalking and intimidation can take various forms (i.e. following another parent, waiting outside the home, turning up unexpectedly at workplace, tracking on the internet, conducting frequent phone calls or texting etc.). Verified threats or intimidation and/or stalking behaviors are those documented in previous reports (i.e. police) and/or corroborated by a neutral third party.

3.3 Restraining Orders

This category refers to the presence of a restraining order or previous orders. It is important for the rater to consider how these orders are being respected, in what measure are they being followed, and if they have been breached in the past or are breached at the moment. A verified history of such agreements is an important indicator for future compliance/noncompliance

4. Parent-Child Relationship

4.1 Parenting Abilities

A dimension particularly related to adults’ abilities to appropriately match the developmental needs of the child (whether it is through play, discipline, limit setting, expectations etc.). It is important to consider culture and variations in cultural practices for this section (i.e. people play differently with children).

4.2 Parent-Child Contact

Refers to the consistency of the parent-child contact. If contact happens once a month, then contact should consistently take place once a month. Consistency within the schedule is the key factor here and not the amount of time spent together.

4.3 Parent-Child Contact Interference

This dimension mainly refers to interfering behaviours (stalling, being late, bad-mouthing the other parent) that may cause difficulties within the access and/or supervised exchanges arrangements. Both non-custodial and custodial parents may cause issues in parent-child(ren) contact; either party may interfere with access, thus leading to no contact. The reason behind a parent’s interference is relevant within this context. For example, does the interfering parent feels that the child(ren) need to be protected from the other parent or is the parent trying to estrange the child(ren) for their own reasons.

5. Child Preferences

5.1 Child Refusal

Aims to capture a child’s preference as it particularly relates to parents’ contact. The display of resistance, discomfort or not wanting to have contact with a
parent, can be expressed verbally or behaviourally (i.e. a child being fearful of a parent is how the child expresses not wanting to have contact with a parent)

Reasons for which the child does not want to see a parent can be described in detail within the comments section and should be considered when recommending subsequent access and exchanges arrangements.

6. Scoring

Scoring the SVC is based on adding the scores for each question in order to come up with a total SVC Score. Although a range of low — moderate — high is provided to consider the combination of all factors, it may take the presence of only one factor to determine the need for supervised access by a professional organization or individual specializing in supervised access services. For example, the presence of a parent convicted of sexual abuse against a child may be in itself a significant factor to decide supervised access.

Supervised Access refers to both supervised visits and supervised exchanges. Supervised Visits involve the child and parent being in the presence of the neutral third party supervisor at all times when there is contact. Supervised Exchanges refer to the transfer of the child from one parent to another for unsupervised contact. The transfer only is supervised by a neutral third party.

Based on low risk scores (0–6), it is suggested you recommend unsupervised access or supervised exchanges, especially if factors are limited to adult conflict during exchange. Based on medium scores (7–17), you may recommend supervised visits, especially if the child remains fearful of the non-custodial parent. Based on high scores (18+), you may recommend no access or a temporary period of no contact. Access arrangements will provide time for the non-custodial parent to receive needed interventions to remedy the factors that are creating the child’s risk of harm or for a child and/or custodial parent to receive needed interventions to facilitate contact.

There may be reasons to override the total risk score, based on specific factors. Examples of such factors may include: escalating violence / abuse / threats to parent; high probability of harm to child (sexual, emotional or physical abuse and neglect); period of no contact, which may suggest a high probability of stress for the child; high incidences of parent interference (sabotage, brainwashing, manipulation); or special needs of parent / child, which usually require additional support. When such factors are indicated as reasons to override the risk score, it is important to provide a justificatory explanation for the higher level of risk.

Special needs of adults and children are case specific. Examples may include parent(s)’s physical conditions (i.e. brain injury, AIDS, epilepsy, etc), mental health issues, and developmental issues. The child’s special needs should also be taken into account when recommending an order/access arrangement (i.e. child with asthma and parent(s) refuse(s) to stop smoking in the house, etc). Special needs of the parent(s) and the child(ren) should be considered in relation to how they may lead to risks in each specific case. Special considerations may present additional risks of harm to the child in terms of support required to facilitate access/parenting.
Other Overriding Factors to Consider

An important overriding factor to be considered is the history of/for current involvement in criminal activities, such as gang activity, access to and/or possession of weapons, household hazards, pet abuse, history or tendency for bar fights, trafficking of drugs/illegal substances, etc. Any external events posing risks to the child are to be considered in this context.

7. Recommendations

7.1 Custody

Custody recommendations are to be provided. Options range from sole custody to joint legal custody selections.

7.2 Access

Access recommendations are to be provided. Access and exchanges that are unsupervised include exchanges taking place in a public place such as a police station, fast food restaurants, malls, etc.

7.3 Details for Custody and Access Arrangements

In this section, the name of organization, the name of supervisor, the type of custody/access arrangement and the date/time need to be recorded. Be as specific as possible about the particulars of the access/custody arrangement at this time.

7.4 Services for Caregivers

This section refers to any programs/services that you, in your professional capacity may recommend for parents, in order to facilitate access and develop the parent/child or parent/parent relationship. Examples of such programs may include: parenting skills training, anger management, substance abuse treatment, counseling/therapy, psychological assessment and parent-child therapy.

7.5 Services for Children

In this section you are instructed to place the corresponding number of each therapeutic service or intervention, next to the child in need of the specific service. Examples of such services may include: individual counseling, group therapy, family therapy, trauma assessment, legal services, etc.

7.6 Monitoring

Monitoring refers to the decision making process and subsequently, to the person making on-going assessments/decisions regarding an existent order and prospective changes to such orders. The person overseeing the access case should be clearly identified (i.e. parenting plan coordinator, Children’s Lawyer, judge) along with the potential review/decision date.

No monitoring refers to an access plan that is about to be implemented at the discretion of the parents, with no external oversight. If this is the case, you will be prompted to briefly explain the situation.

It is important to note that this SVC tool is not a domestic violence screening tool, however it could be used with a valid domestic violence checklist to assess
this type of risk. The SVC is intended as a guide for custody and access matters, and it is not intended to be a diagnostic tool.

Reference List


Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.