

Domestic Violence Case Practice Protocol

New Jersey Department of Children and Families

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I. Overview

A. What Is Domestic Violence?

Domestic violence is a pattern of coercive behavior used by the batterer to establish control and fear in a relationship against an intimate partner, including physical abuse, verbal abuse, isolation, sexual abuse, threats, intimidation, emotional abuse, economic control, deprivation of rights and freedom, and the abuse and/or neglect of children. *

* National statistics show that the majority of domestic violence victims are female. For the purposes of this document, female pronouns will be used for “non-offending parent/caregiver” and male pronouns for the “batterer.”

- The severity, type or frequency of abuse may differ but power and control are the goals.
- Domestic violence occurs across racial, ethnic and socio-economic groups, in heterosexual relationships, same sex relationships, and teen dating relationships and may be perpetrated by males or females.

B. Purpose of the Domestic Violence Case Practice Protocol

When domestic violence co-occurs with child abuse and/or neglect, appropriate and timely identification, assessment and intervention promote successful outcomes regarding child safety, stability, and permanency. In order to intervene effectively and improve the safety and well-being of children, DCF/DYFS Workers must address domestic violence issues in their caseloads.

The purpose of this protocol is to provide guidance to Workers of the Department of Children and Families and the Division of Youth and Family Services when responding to situations where child abuse and/or neglect and domestic violence co-occur. The protocol:

- Presents a common definition of domestic violence for DCF/DYFS Workers
- Presents the statutory requirements, and the Department's/Division's guiding principles, goals and objectives when responding to families in which domestic violence and child abuse and/or neglect co-occur
- Provides consistent statewide case practice standards for DCF/DYFS Workers when responding to families in which domestic violence and child abuse and/or neglect co-occur
- Each family member’s individual strengths and needs guide assessment, case planning and the provision of services
- Reflects the DCF/DYFS Case Practice Model which emphasizes a strengths-based, family-centered approach that engages families and promotes safety
- Reflects the DCF/DYFS commitment to collaborative policies, practices and protocols
- Provides references to DYFS Manual sections where domestic violence policies and procedures are incorporated.

C. Domestic Violence Facts and Research

United States

- According to the National Violence against Women Survey, nearly 25 percent of American women reported being raped and/or physically assaulted by a current or former spouse, cohabiting partner or date at some time in their lifetime (Center for Disease Control 2000).
- As many as 324,000 women each year experience domestic violence during their pregnancy. For 30% of women who experience domestic violence, the first incident occurred during pregnancy.
- In a national survey of more than 6,000 American families, half of the men who frequently assaulted their wives also frequently abused their children (Strauss and Gilles 1990).
- Studies suggest that children who witness domestic violence are at increased risk for emotional and behavioral problems. Children's responses vary from no symptoms to symptoms including anxiety, withdrawal, sleep disturbances, eating disorders, learning problems, hyperactivity, aggression and other disruptive behavior (NY).
- In 2001, more than half a million American women (588,490) were victims of nonfatal violence by an intimate partner (Bureau of Justice Statistics 2003).
- Slightly more than half of female domestic violence victims live in households with children under age 12 (Bureau of Justice Statistics 1995).

New Jersey

- According to the New Jersey State Police 2007 Uniform Crime Report:
 - 71,901 domestic violence offenses were reported by police.
 - Children were involved or present during 33 percent of these offenses, specifically 5 percent (3,796) were involved and 28 percent (19,945) were present.
- According to the NJ Coalition for Battered Women 2007 Annual Statistical Report:

Adults

- 1530 women were sheltered by domestic violence programs.
- 31,282 non-residential victims received legal advocacy services. An additional 8,789 domestic violence victims received other non- residential services.
- The services provided most often to both sheltered and non-residential victims were housing advocacy, individual counseling, and other financial advocacy.

Children

- 1,740 children were sheltered by domestic violence programs.
- An additional 1,951 children received non-residential counseling and support services.
- The services provided most often to sheltered children were recreation/child care, individual counseling and group counseling.
- Services provided most often to non-residential children were adjunctive therapy, recreation/child care and education support.

D. Resiliency and Protective Factors

Children's risk levels and reactions to domestic violence exist on a continuum where some children demonstrate enormous resiliency while others show signs of significant maladjustment. Protective factors such as social competence, intelligence, high self-esteem, outgoing temperament, strong sibling and peer relationships and a supportive relationship with an adult are considered important variables that help protect children from the adverse effects of exposure to domestic violence (Child Protection in Families Experiencing Domestic Violence, Child Abuse and Neglect User Manual Series U.S. Dept of Health and Human Services, Administration for Children and Families)

Other positive factors that increase children's resiliency are:

- Development of talents and interests
- Relationships with trustworthy adults
- Ability to escape self-blame
- Strength of peer relationships (Lundy Bancroft)

The impact of exposure to domestic violence on children can be mitigated by the severity and frequency of the abuse witnessed, whether or not the child is also abused, the age of the child and the timeliness and effectiveness of the intervention. (Peled and Davis)

E. Commitment to Child Safety

DCF and DYFS are committed to the process of Structured Decision Making which recognizes domestic violence as a safety factor that is to be assessed in every child protective services (CPS) case. In cases where abuse and/or neglect are not the primary issue, domestic violence will be assessed when indicated.

F. DCF Commitment to Collaborative Policies and Practices

This protocol focuses specifically on intimate partner violence. The complex nature of intimate relationships makes the dynamics of domestic violence very different from other forms of family violence, such as elder abuse and violence between siblings.

Domestic violence must be addressed through collaboration, joint problem solving and cross training among domestic violence service providers, child protection workers, welfare staff, law enforcement and the courts.

Efforts to address the co-occurrence of domestic violence and child maltreatment are most effective when grounded in mutual respect and cooperation between child protection and domestic violence agencies. Working with community agencies and domestic violence programs that serve families affected by domestic violence will result in more successful outcomes for children and families.

Domestic Violence Services

Domestic violence victims can access specialized domestic violence services for themselves and their children in every county. DCF funds at least one Domestic Violence program in each county that provides core services including 24 hour hotline and shelter services, specialized counseling, legal, financial and housing advocacy, children's services, community education and community networking. Contact information for domestic violence programs, including culturally specific domestic violence programs, by county is attached (see Appendix D: NJ Coalition for Battered Women Guide to Services) and can also be accessed through:

<http://www.njcbw.org>

PALS Programs for Children

Domestic violence programs in several counties also provide the Peace: A Learned Solution (PALS) program. The PALS program provides comprehensive services for children, ages 4 to 12, including assessment, a variety of individual and group creative arts therapies such as art, dance/movement, and drama, etc., educational support, parent-child and family enrichment activities, and transportation arrangements. It also provides services for the non-offending parent/caregiver, including counseling, advocacy and case management services to assist with concrete needs such as housing, employment and support. PALS typically provides intensive services for six months and then follow-up services for an additional six months. PALS programs are funded by DCF. (See Appendix E: PALS Programs.)

Domestic Violence Liaison Pilot Project

The Domestic Violence Liaison Pilot Project is a partnership between the Department of Children and Families and the NJ Coalition for Battered Women at the State level and the DYFS offices and domestic violence programs at the county level. Domestic Violence Liaisons are domestic violence experts co-located at DYFS Offices (when available), to provide on site case consultation to DYFS and support and advocacy for domestic violence victims and their children. The purpose of this collaboration is to:

- Increase safety and improve outcomes for children and their non-offending parents/caregivers in domestic violence situations, and
- Strengthen DCF/DYFS capacity to provide effective assessments and intervention for families in domestic violence situations.

G. Building on Best Practices

The DCF Case Practice Model and the nationally recognized Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice, also known as “The Green Book,” share common principles that guide domestic violence and child protection system interventions:

- Safety, well-being, stability and permanency for children and families
- Children in the care of their non-offending parent, whenever possible
- Community service systems with many points of entry
- Different responses to families

H. Definitions

The DCF/DYFS common definition of "Domestic Violence" is a pattern of coercive behavior used by the batterer to establish control and fear in a relationship against an intimate partner, including physical abuse, isolation, sexual abuse, threats, intimidations, emotional abuse, economic control, deprivation of rights and freedom, and the abuse and/or neglect of children.

- The severity or type of abuse may differ but power and control are the goals.
- Domestic violence occurs across racial, ethnic and socio-economic groups, in heterosexual and same sex relationships. Both males and females can be batterers. However, national statistics show that 95% of domestic violence victims are female.

See Appendix B: Prevention of Domestic Violence Act, for the legal definition of domestic violence.

"Non-Offending Parent/Caregiver" is any person who is defined as a victim of domestic violence in the Prevention of Domestic Violence Act (N.J.S.A. 2C:25-19, see Appendix B) and is not an alleged or substantiated perpetrator of child abuse and/or neglect or an alleged or convicted perpetrator of domestic violence.

- **"Batterer"** is a perpetrator of domestic violence.
- **"Perpetrator"** is any person who has committed a substantiated act of child abuse and/or neglect.

I. Guiding Principles for DCF/DYFS Staff

The principles that guide the DYFS Worker’s response when child abuse/neglect and domestic violence co-occur include:

- The child's safety is paramount -- the primary responsibility of DYFS staff is to ensure the safety of children and to prevent the risk of future harm. Assessment for safety and risk of harm is ongoing, from screening through case closure.

- Enhancing the safety of the non-offending parent/caregiver through appropriate legal and community supports and resources enhances the safety of the child.
- DYFS Workers advocate for the child and the non-offending parent/caregiver by providing support services and information and referrals in a respectful and non-blaming manner.
- Intervention is provided with respect and understanding of the family's culture.
- Each family member's individual strengths and needs guide assessment, case planning and the provision of services.
- A continuum of care that builds on informal resources (e.g., neighbors, clergy) and formal community supports (e.g., counselors, health professionals), is essential to meet the needs of these families.
- Collaborative relationships with law enforcement, the courts, domestic violence programs, batterer intervention programs and other service providers are essential to address the needs of these families and to hold batterers accountable for their actions.

Removal of the child from the non-offending parent/caregiver is a last resort, only after reasonable efforts to prevent placement have been made. (See II A 1300, Commitment to Permanency, and II A 1302, Reasonable Efforts.)

J. Goals/Outcomes of DCF/DYFS Intervention

The primary goals/outcomes of DYFS intervention with families experiencing the co-occurrence of child abuse and/or neglect and domestic violence are:

- to ensure the safety of children whose family is experiencing the co-occurrence of child abuse and/or neglect and domestic violence, from reporting through case termination.
- to develop a safety protection plan with the non-offending parent/caregiver to ensure that each child is safe from harm and substantial risk of harm.
- to enable the child to live in a stable and nurturing home environment.
- to provide individualized, strengths-based, needs-driven services to children and families.
- to reduce subsequent reports of domestic violence and/or child abuse and neglect while DYFS is providing services and after case closure.

II. Legal Overview

A. Statutory Requirements

1. Child Protection Laws

N.J.S.A. 9:6 and N.J.S.A. 30:4C set the framework for child protection and child welfare reporting, investigation, and the provision of services for children and families in the State of New Jersey.

N.J.S.A. 9:6-8.8 mandates that:

The safety of the children served shall be of paramount concern.

It is the intent of N.J.S.A. 9:6 to:

Assure that children are immediately safeguarded from further injury and possible death and that their legal rights are fully protected.

Under N.J.S.A. 9:6-8.55: a DYFS Worker may seek an Order of Protection to require a perpetrator of child abuse/neglect or a batterer to stay away from the home, the child, and the non-offending parent/caregiver or for other relief. Consult the DAG assigned to your Local Office when considering whether to pursue an Order of Protection.

2. Domestic Violence Laws

N.J.S.A. 2C:25-17 et seq., the Prevention of Domestic Violence Act of 1991, and N.J.S.A. 30:14-1 et seq., the Shelters for Victims of Domestic Violence Act, provide the framework for the handling of domestic violence situations by law enforcement and the courts and the provision of services for victims of domestic violence and their children.

B. The Prevention of Domestic Violence Act:

It is the intent of the Act to assure victims of domestic violence the maximum protection.

The Prevention of Domestic Violence Act:

- Provides a legal definition of domestic violence
- Specifies the rights of victims
- Outlines civil and criminal relief available through the courts to victims including temporary and final restraining orders and monetary relief

(See Appendix B: Prevention of Domestic Violence Act.)

Refer to The Shelters for Victims of Domestic Violence (N.J.S.A. 30:14-1 et seq.) and NJ Administrative Code (N.J.A.C. 10:130) that includes:

- General Provisions for Shelters for Victims of Domestic Violence and
- Standards for Shelters for Domestic Violence

III. Confidentiality

DYFS Workers adhere to DYFS confidentiality and release of information policies and practices required by Federal and State law including the Federal Health Insurance Portability and Accountability Act (HIPAA). (See II A 1200, Disclosure of Client Information, and II A 1600, Collection and Retention of Client Information.)

Additional confidentiality safeguards are required when domestic violence is present to protect information regarding the whereabouts of the non offending parent/caregiver and the child and other client information.

- **Non-offending parents/caregivers and minors in domestic violence shelters:**
 - The Worker shall not reveal to anyone the location of persons including children residing in a domestic violence shelter without the person's informed consent. If a request is received for information regarding anyone who has entered a shelter, the Worker does not confirm that the individual is in the shelter. The Worker takes the name and number of the person making the inquiry and relays the caller's message to the appropriate shelter staff in order to protect that individual, shelter staff and other residents.
 - See II A 1204.10.
- **Referrals to community services - When referring family members to community agencies, the Worker keeps the following information confidential:**
 - The non-offending parent's/caregiver's location (address) on records or documents that may be accessible to the alleged perpetrator, i.e., DYFS Verified Complaint, should not contain victim's address/location if that complaint is accessible to the batterer.
 - When sending any information to a service provider, redact all references to the victim's location.
 - Records maintained pursuant to The Prevention of Domestic Violence Act of 1991 N.J.S.A. 2C:25-17 et seq., and not making them available to any individual or institution except as provided by law
 - Records released by the Administrative Office of the Courts regarding domestic violence restraining orders kept in the Domestic Violence Central Registry
 - (See Appendix B: Prevention of Domestic Violence Act)

When domestic violence is present or alleged, the Worker should consult his or her Supervisor or the Deputy Attorney General (DAG) assigned to the Local Office with specific questions regarding confidentiality and release of information.

IV. Domestic Violence Screening

A. At All Stages of DCF/DYFS Contact

Domestic violence screening starts with the initial referral to the State Central Registry (SCR) and continues with each subsequent contact with the family. It is important that the follow-up assessment be consistent and occur at all phases of a DYFS case.

B. Screening For Domestic Violence at SCR

1. State Central Registry

Centralized screening at SCR provides 24 hours a day, seven days a week access for reports of suspected child abuse or neglect, requests for services and referrals.

2. Every Report Screened

SCR Screeners must screen for the presence of domestic violence on **every** report received and document the response in the Screening Summary. After listening to the referral source's concerns and asking other priority screening questions, the Screener **always** asks: *“Are you aware of any incidents of violence involving the adults living in or having access to the home?”*

3. Examples of Specific Screening Questions

The Screener asks further questions, depending on the response to the above question and/or the presenting situation. The questions may include:

- Was the child home when the violent incident occurred?
- During the incident(s), did an assault on the child occur?
- During the incident(s), was the child physically harmed while attempting to intervene?
- During the incident(s), was the child inadvertently harmed even though he/she was not the actual target of the violence?
- What was the nature and severity of the occurrence?
- Were the police called for this occurrence?

If the answers to the above six questions are **no**, the Screener stops here and continues with regular screening. If any of the answers are **yes**, he or she continues asking the questions below.

- What is the frequency of the violence/occurrence?
- Is the intensity of the incidents escalating?
- Is the abusive partner violent outside the home?
- What are the alias, maiden or previous marriage names for all adults?
- Have the adults lived in another state?
- Does the child have a medical condition, behavioral, mental or emotional problems, or a developmental or physical disability, particularly as it relates to his ability to protect himself?

- Who do you believe is the perpetrator?
- What is his relationship to the child?
- Where is he now?
- Does he have access to the child?
- What are the alleged perpetrator's physical, mental and/or emotional abilities, particularly as it relates to his ability to **control** his actions?
- Are substances (inclusive of prescription drug misuse) being used prior to or during the incident(s)?
- Have there been any threats of homicide or suicide?
- Were any weapons used? Is there access to weapons?
- Has the victim left the batterer in the past?
- Why does the batterer scare the caller?
- Has the batterer threatened to run off with the child?
- Is the family isolated? If so, to what degree?
- Do any family members seem more isolated than others?
- What is the ability of the victim of domestic violence to use a support system?
- What are the dynamics of the relationship between the household members and the child?

4. Promis/Gavel Check

A Promis/Gavel check on the alleged batterer who has harmed the child or placed the child at risk of harm is done as a tool to assist with making a screening decision.

5. Report Types

a. Child Protective Service Reports (CPS Reports)

If the report alleges a specific harm to the child and meets the four criteria for accepting a case, the SCR Screener accepts the call as a child protective service report. The Screener identifies the specific allegation of harm and proceeds to send the report to the Local Office for investigation (see Appendix F for a list of allegations).

Criteria to Accept a CPS Report

The four criteria that must be met for DYFS to accept a report of child abuse or neglect include:

- 1) The alleged child victim is a born child, under 18 years of age.
- 2) The alleged perpetrator(s) is the child's parent, guardian or other person in a caregiving role, who has custody or control of the child.
- 3) The child victim(s) was harmed or placed at substantial risk of harm, meeting criteria specified in the Allegation-Based System. (See II B 208.1.)
- 4) There is a specific incident or set of circumstances that suggest the harm or substantial risk of harm was caused by the child's parent, guardian or other person having custody or control of the child.

If the report alleges risk of harm or does not specify the extent of harm, to accept a report, a domestic violence incident must be specified and meet substantial risk of harm criteria.

The presence of domestic violence and/or exposure to domestic violence in and of itself does not constitute an allegation of substantial risk.

Whether there is a risk of harm sufficient to justify taking a report is determined by any one or a combination of the factors that follow.

The Screener assesses each factor in the circumstances reported in his or her decision, including:

- The child's age
- The child's medical condition, behavioral, mental or emotional problems, developmental or physical disability, particularly as it relates to his ability to protect himself
- The nature and severity of the occurrence
- The frequency of the occurrence
- The alleged perpetrator's physical, mental and/or emotional abilities, particularly as they relate to his ability to control his actions
- The dynamics of the relationship between the household members and the child
- The alleged perpetrator's access to the child
- The previous history of substantiated child abuse or neglect
- The current stresses/crises in the home
- The presence of other supporting persons in the home

Additional factors specific to domestic violence assessed include, but are not limited to:

- Whether the child has been hurt in a previous domestic violence incident and/or is in danger of being hurt during the incident(s)
- The level of involvement of the child (i.e., present, directly involved in the incidents, attempting to intervene, out of the immediate area)
- The use of or access to weapons
- Whether the police were called for this occurrence
- The history of past incidents of domestic violence
- Whether the intensity of the incidents is escalating
- Whether substances are being used prior to or during the incident(s)

- Whether there have been any threats of homicide or suicide
- Whether the batterer has threatened to run off with the child
- The degree of isolation of the family
- The ability of the non-offending parent/caregiver to use a support system
- The "reasonable actions" taken by the non-offending parent/caregiver to protect the child
-

In determining what constitutes "reasonable actions" to protect the child by a parent or caregiver who is also a victim of domestic violence, the Screener does not include any actions that may result in substantial bodily harm to the child or non-offending parent/caregiver, including retaliation.

b. Child Welfare Services (CWS) Assessments Required by State Statute

Court Referral for Evaluation

A court may request that DYFS conduct an evaluation to assess risk of harm to a child before a visitation order is granted when domestic violence is present. The Screener accepts this referral and processes it as a statutory Child Welfare Assessment. The Screener seeks his or her Supervisor's assistance if he or she is unsure how to handle a report.

c. Special Case Types Considered for CWS Assessment:

A request to assess the plan for a child's immediate supervision, care, and safety, when:

- A parent/caregiver is arrested.
- The child is arrested, ready to be released from police custody, and the parent/caregiver is not available

d. Parental Notification of Location and Screening Log

- When a parent flees with a minor child from the other parent to avoid what he/she believes is imminent physical danger, N.J.S.A. 2C:13-4 requires that the parent give notice of the child's location to the police department, the County Prosecutor's Office, or to DYFS.
- Many agencies, including domestic violence programs and shelters, advise their clients to contact DYFS when they have fled their homes with their minor children. The purpose of the notification is to provide victims of domestic violence with an affirmative defense to the prosecution of interference with custody charges, which is a crime of the third degree.
- The Screener documents the call in a screening log.

e. Information and Referral (I&R)

SCR also receives a broad range of calls that do not allege abuse or neglect but are requests for information and services. Callers requesting domestic violence services can contact the local domestic violence program directly or the statewide domestic violence hotline, 1-800-572-SAFE (see Appendix D for a list of domestic violence services by county).

If the family has never been known to DYFS or is a closed DYFS case and no harm or risk of harm to a child is alleged, the Screener advises the caller to contact the police or the local law enforcement agency, to make a report.

If an adult calls to report he or she is a victim of domestic violence, the Worker refers the caller to both:

- The police/local law enforcement
- The local/county domestic violence program hotline and/ or the statewide domestic violence hotline (1 -800 -572-SAFE) for services and access to a shelter program. (See Appendix D)

The screener documents these calls as Information and Referral (I&R).

f. Differential Response (DR) / No Action Required

Differential Response (DR) is a coordinated family-centered, community-based case management and service system designed for families facing challenges or stress that threaten family stability. These are voluntary requests for services from a family or on behalf of a family with their permission. It allows families to receive services without opening a protective services case. Only families with no active DYFS involvement are eligible for Differential Response. The Screener documents this call as "No Action Required" (NAR). Differential Response is not available in every county.

g. Related Information (RI)

The Screener accepts a case as Related Information referral if the family is an open service case or actively under CPS investigation or CWS assessment, and there is no new report of abuse/neglect.

V. Protective Service Investigations/Child Welfare Assessments

A. Domestic Violence Assessed in Every Investigation

In an effort to determine the safety of the child and to create effective interventions, the nature and extent of domestic violence must be assessed for **every** case accepted for a **CPS**

investigation. The Worker completes the Structured Decision-Making (SDM) tool, New Jersey DYFS SDM Safety Assessment (in-Home Cases) at the following intervals:

- Upon investigating a CPS allegation on a new or re-opened case
- Upon investigating a CPS allegation on an open case or new allegation on an open investigation
- Whenever new information is learned that indicates a threat to the safety of a child on an open case, investigation or service assessment

The Worker also completes the New Jersey DYFS SDM Family Risk Assessment for each CPS investigation. SDM assessments are completed throughout the life of the case.

B. Indicators / Signs of Domestic Violence

1. Indicators: During the investigation and on-going supervision, the Worker looks for the following potential indicators of domestic violence:

- **Coercive Control** - One of the major dynamics of domestic violence is the batterer's need to control the victim and the family. The risk is highest when the control includes child physical and/or sexual abuse or when the non-offending parent/caregiver decides to leave.
- **Child injury and child endangerment** resulting from a domestic violence incident(s) have a very different dynamic than child abuse that does not occur in a domestic violence context. Was the assault a result of the child's attempt to intervene, or was the child a bystander to the incident? Was the assault on the child an attempt to control the victim?

If the child intervened but was not assaulted during the domestic violence incident(s), there is a risk to the child of being harmed inadvertently. Even though the child may not be the actual target of the violence, a risk of physical harm exists.

- **Withholding Care** - Batterers may also withhold medical care, control the family finances and/or use other coercive control techniques that may result in some form of child neglect. Neglect that is the result of a batterer's controlling behavior is part of the domestic violence.

2. Signs - During any contact with the family, the Worker may observe signs of domestic violence rather than the actual conduct itself, such as:

- The non-offending parent/caregiver has repeated injuries or injuries that are difficult to explain
- Damage to physical property including holes in the walls, broken doors, damaged telephones, etc.
- The non-offending parent's/caregiver's behavior indicates fear and/or control by her partner

- The non-offending parent/caregiver is described by the other partner as “clumsy,” “incompetent,” “crazy,” “stupid,” or in other such derogatory terms
- One partner constantly speaks for the other and strongly resists separate interviews
- One partner is overly solicitous and/or condescending to the other
- The children’s behavior indicates fear of one parent or protectiveness of the other
- The DYFS Worker feels afraid of a family member

3. Self Disclosure During Inquiry - Sometimes there are no particular indicators of domestic violence in a family, and no previous reports. However, family members may self-disclose domestic violence in response to routine, matter-of-fact, direct inquiry about family dynamics and abusive behaviors.

C. Buddy System and Other Safety Procedures for Worker Safety

DYFS policy states that a teamed response is **required** in cases that involve ongoing domestic violence situations where the alleged batterer resides in the home. A teamed response is preferred if the batterer does not reside in the home. The Worker should consult with his or her Supervisor to determine if a teamed response is appropriate and to determine the members of the team. Workers should contact the Human Services Police for assistance when needed.

D. Interviewing Procedures

1. Interview Setting

When domestic violence is present or suspected, **it is vital to interview the adult victim and children in supportive and confidential sessions, separate from the batterer.** A safe setting will provide the opportunity for a more complete and accurate assessment of the nature, extent and occurrence of the domestic violence.

2. Order of Interviews

The Worker should interview the family members in the following order, if possible:

- The non-offending parent/caregiver; however if the Worker believes that this will cause risk to the child, begin with the child
- The child, beginning with the child who is the alleged victim, then siblings, and then other children in the home
- The person who is the batterer

3. Interviewing the Non-Offending Parent/Caregiver

Whenever a non-offending parent/caregiver reports domestic violence, the information provided must not be shared with the batterer. Sharing even seemingly insignificant information provided by the victim may endanger the victim and the children. **Under no circumstances should information from the separate sessions with the non-offending parent/caregiver and the children be revealed to the batterer.**

When interviewing the non-offending parent/caregiver, the Worker:

- Believes the non-offending parent/caregiver when she says she is in danger
- Tells the non-offending parent/caregiver that domestic violence is against the law
- Informs the non-offending parent/caregiver about her confidentiality rights
- Provides the non-offending parent/caregiver with contact numbers for the DCF lead domestic violence agency
- If DYFS already has records about the domestic violence, explain to the non-offending parent/caregiver that only information received from official sources, i.e. law enforcement, medical may be discussed with the batterer
- Tells the non-offending parent/caregiver how and when an interview with the batterer will be held
- Asks the non-offending parent/caregiver about possible consequences to herself and the child. If it appears the batterer will endanger the child or non-offending parent/caregiver, the interview is delayed

The following questions provide examples of what to ask:

- How do you and your partner argue?
- When you argue, do you feel afraid?
- Has your partner ever:
 - Physically hurt you or threatened to hurt you or the children?
 - Checked up on you or followed you?
 - Made all or most decisions for you?
 - Withheld money for food, clothing, or other needs of yours or the children?
 - Told you who you can see or talk to?
 - Forbade you from seeing friends or family members?
 - Told you where you can or cannot go?
 - Tried to use the children against you?
 - Threatened to harm or ‘snatch’ the children if you leave?

4. Interviewing the Child

During all interviews with children, DYFS Workers are to assess for the presence of domestic violence. It is extremely important to obtain the child’s account of what he/she saw. It is also important to note that older children are more likely to minimize reports of domestic violence out of loyalty to parents; they may often protect one or both parents. The Worker assures the child that the violence is not his or her fault or the non-offending parent’s/caregiver’s fault. He or she tells the child what will be shared.

The following questions provide an example of what to ask the child:

- Do Mom and Dad (boyfriend, partner) ever fight?
- What happens when they fight?
- Does anyone yell?
- Does anyone hit?
- Does anyone ever get hurt?
- Do you ever get hit or hurt when Mom and Dad are fighting?
- Do your brothers or sisters ever get hit or hurt when Mom and Dad are fighting?
- Has anyone ever used a gun or a knife? Do you know where the gun or knife is? What do you do when Mom and Dad are fighting?
 - Stay in the same room?

- Leave or hide?
- Go to an older sibling?
- Have you ever tried to make Mom and Dad stop? / What happened?
- How do you feel when this is going on?
- Have you ever called for help? What happened?

5. Interviewing the Batterer

Unlike interviews with the child and/or non-offending parent/caregiver, DYFS should **not** routinely question known or suspected batterers about domestic violence unless it is in the context of the allegation. It is necessary to discuss the issue with the batterer when domestic violence is alleged by the referent or when a child has been physically harmed as a result of a domestic violence incident. When talking directly with batterers about domestic violence, Workers should be cautious in their approach and conduct the interview in a broad and general manner to avoid a violent outburst. The batterer may react directly towards the Worker or blame his/her partner for instigating the Worker's discussion and DYFS intervention.

Interviews with batterers should not move beyond obtaining their account of the incident. Direct and specific inquiry or confrontational questioning **must** be avoided.

The following is a guide for interviewing a known or suspected batterer:

- Please tell me what happened.
- Can you tell me a little more about that?
- What happened next?

The Worker's listening skills are also critical during an interview with the batterer, because batterers may use a variety of ways to rationalize their behavior to themselves and to others. Some of the common excuses include:

- Minimizing or Denying What Has Happened
 - "It only happened once or twice."
 - "I only pushed her."
 - "She's exaggerating. I never touched her."
- Blaming the Victim for Bringing it on Herself
 - "She really knows how to push my buttons."
 - "If she hadn't provoked me, I wouldn't have hit her."
 - "I was only defending myself."
- Citing Good Intentions/Justifying the Violence
 - "I just wanted her to listen to me."
 - "She was drunk/hysterical so I slapped her to calm her down."
 - "Somebody has to be in charge."
- Blaming Alcohol/Drugs or Outside Stress
 - "I just blacked out."
 - "I'm not myself when I'm drinking."
 - "I'm under a lot of pressure at work."
- Claiming Loss of Control
 - "I just lost it. Something snapped inside of me."
 - "A man can only take so much."
 - "I was so angry I didn't know what I was doing."

These excuses are attempt by the batterer to mask the real reasons he intentionally uses violence to instill fear and gain or maintain compliance from the other partner. A person who uses physical violence is not “out of control,” but exerting control that he has defined as “rightfully” his.

VI. Decision Making

A. Context and Content of Domestic Violence

The context and content of domestic violence shapes the non-offending parent/caregiver’s decisions. The non-offending parent/caregiver may remain in an abusive relationship because she believes leaving may place her and the children in a more dangerous position. Therefore, the decision to remain may be strategic because it is based on the non-offending parent/caregiver’s assessment of present and future harms.

Without understanding the non-offending parent’s/caregiver’s reality, her behavior may be misinterpreted. What appears as unreasonable behavior may in fact be proactive and tactical. If the non-offending parent’s/caregiver’s past experience is that any part of the system has failed to hold the batterer accountable or provide safety for her and the children, she may feel that using the system is not a viable option. By understanding how the domestic violence and the system response influences the situation, DYFS Workers can help develop a case plan to achieve safety and stability for the child and the non-offending parent/caregiver.

B. Response Will Vary

Upon completion of the child protective service investigation and/or child welfare assessment, it may be sufficient to refer the family to the domestic violence lead agency for services and support rather than to keep a child protective services case open. Other cases, where a child is determined to be unsafe, will require that the case be opened for ongoing child protective services due to the safety factors associated with the domestic violence. Each situation is unique, but ensuring safety is paramount in every assessment and subsequent action.

C. Situation UNSAFE-Immediate Action Needed

A situation should be considered **UNSAFE** and the victim and children in need of an immediate safety plan and enhanced advocacy from the domestic violence lead agency if the child or non-offending parent/caregiver feels in danger or if the information that has been provided indicates:

- Weapons are present in the home or accessible to the batterer
- Batterer has used or threatened to use a weapon
- Parties had a recent separation or threatened separation
- Batterer abuses alcohol, illegal drugs, prescribed medications or other substances
- Frequency or severity of the violence increases
- Batterer is violent outside of the relationship
- Batterer threatens to kill
- Batterer has contemplated, threatened or attempted suicide

- Batterer is violent toward the children
- Batterer has injured or killed pets

It may be dangerous to require a non-offending parent/caregiver to leave the home or seek a restraining order when, in her estimation, it will increase the level of danger to her and her children. Because some batterers have been found to increase their use of violence at the point of separation or when formal legal intervention occurs, the DYFS Worker should assist the adult victim in contacting the domestic violence lead agency for safety planning and enhanced advocacy. Prompt collaboration among the DYFS Worker, the non-offending parent/caregiver and a domestic violence expert can result in a comprehensive plan for safety and stability for the child and non-offending parent/caregiver.

D. Individual Safety and Case Plans- No One Size Fits All

1. In-Home DYFS Safety Protection Plan

After the Worker completes the In-Home Safety Assessment, the Worker must make a safety decision. The Worker, with his or her Supervisor, determines whether the child may remain in the home with an In-Home DYFS Safety Protection Plan in place or whether the child must be placed out of the home for safety reasons. If the child remains at home, the Worker and Supervisor complete the In-Home DYFS Safety Protection Plan to document actions that will be taken to ensure the child's safety.

2. Safety for Child and Non-Offending Parent/Caregiver Inseparable

Creating safety for a child exposed to domestic violence is inseparable from creating safety for the non-offending parent/caregiver and can be accomplished by reducing the risks posed to both the non-offending parent/caregiver and her child by the batterer. **However, it is important to remember DYFS' primary responsibility is to ensure the safety of the child.**

Safe intervention and case planning practices by DYFS Workers involve activities that reduce the risk posed to both the child and the non-offending parent/caregiver. It is good case practice for the DYFS Worker to discuss the immediate and future safety needs with the non-offending parent/caregiver in order to develop the most appropriate In-Home Safety Protection Plan. The non-offending parent/caregiver and child may, in fact, fear retaliation or harm by the batterer due to DYFS involvement.

3. Full Range of Strategies Considered

The Worker considers the full range of strategies the victim uses while assessing her behavior in providing safety and stability for the child. By acknowledging the full range of strategies, the Worker can help the non-offending parent/caregiver develop safety and case planning activities that will accurately reflect the strategies needed to achieve safety and stability for the child. The Worker considers strategies that may be familiar, such as:

- Working with the local domestic violence programs
- Seeking shelter
- Contacting the police

- Getting a restraining order

Others which the non-offending parent/caregiver may use and which she feels provide safety in that family's particular situation, including but not limited to:

- Leaving the child with a relative or friend
- Not leaving the batterer due to fear for the non-offending parent's/caregiver's own life or harm to the child
- Minimizing and denying the violence in the presence of the batterer to avoid further harm and retaliation
- Fighting back and defying the batterer
- Complying with and placating the batterer

4. Intervention Options – No One Size Fits All

Domestic violence encompasses a wide range of behaviors from extremely dangerous to less serious. Families require a range of interventions and case-specific safety actions.

Interventions include, but are not limited to:

- Domestic violence counseling
- Legal and financial advocacy
- Specialized services for children
- Supervised visitation and exchange centers
- Housing and other support services

5. Unsafe Interventions Are Not Recommended

DYFS will not include actions in the DYFS Safety Protection Plan or Case Plan that may increase danger such as mandating restraining orders, couples counseling, general anger management programs, or mediation.

6. Discussing Options for Separation

The Worker discusses with the non-offending parent/caregiver options for separation from the batterer. These options should be explored fully since either staying or leaving may increase the risk to the child or non-offending parent/caregiver. The Worker considers these options in the development of the Safety Protection Plan and Case Plan.

7. Safety Actions

Safety actions can include, but are not limited to:

- Criminal or family court-mandated batterer intervention programs (**not anger management**),
- Civil and criminal protection orders removing the batterer from the home or prohibiting access to the adult victim and children
- Probation monitoring of the batterer's compliance with court orders

8. Monitoring the DYFS Safety Protection Plan

The Worker reviews the Safety Protection Plan regularly with the parents/caregivers and the child, if appropriate.

E. Out-of-Home Placement

1. Safe and Together

The child should remain in the care of the non-offending parent/caregiver when domestic violence is present, whenever possible, to secure safety and stability. Removal of the child from the non-offending parent/caregiver is a last resort and should be done only after reasonable efforts to prevent placement have been made.

There are times when the Worker and Supervisor must conclude that an In-Home Safety Plan is not feasible and out-of home placement is required to protect the child. This decision indicates that placement is the only safe alternative and unless the child is placed, he or she will likely be in danger of immediate or serious harm. Even when the child is removed, domestic violence services should be offered for all family members

Family reunification with the whole family may not be appropriate when domestic violence is present. If the child is in out-of-home placement the case goal may be reunification with the non-offending parent/caregiver. The DYFS Worker works separately with each parent on permanency planning, when appropriate.

2. Batterer Not A Viable Placement Option

In situations where the non-offending parent/caregiver is unable to care for the child due to substance abuse, mental illness, or extensive personal injury, it is critical to remember that the batterer is not a viable option as a caregiver because the child may not be safe in his care. If the batterer's parents or other family members are considered as placement resources, the batterer's access to the child must be discussed and assessed fully. When appropriate, the Worker must emphasize that the batterer is **not** to have unsupervised access to the child, unless ordered by the court.

3. Visitation

When developing the visitation plan, the Worker:

- Assesses the risk to the child and the non-offending parent/caregiver from the batterer
- Complies with domestic violence court orders (restraining, parenting time, custody, etc.)
- Does not divulge to the batterer any identifying information about the location of the non-offending parent/caregiver and when visitation will occur between the non-offending parent/caregiver and the child
- Gives information on the visitation schedule of the batterer to the non-offending parent/caregiver
- Considers visitation by the batterer with the child in the resource home only if the safety of the child and resource family can be assured

- Requires that the relatives abide with any safety provisions in the non-offending parent/caregiver's visitation plan if the placement is with the relatives of the batterer
- Addresses the safety of the non-offending parent/caregiver whether restraining orders are issued or not as required under the provisions of the Prevention of Domestic Violence Act including confidentiality and parenting time provisions

Workers consult the DAG assigned to their Local Office if they have any concerns regarding the visitation plan.

VII. Case Plans

A. Separate Interventions for Batterer and Non-Offending Parent/Caregiver

DYFS case planning for families experiencing domestic violence requires focusing on the safety of the non-offending parent/caregiver and the responsibility of the batterer to stop the abusive behavior in order to keep the children safe. **Separate casework interventions should be developed for the non-offending parent/caregiver and the batterer.**

All batterers should have case plans requiring the cessation of the abusive behavior and, if appropriate, compliance with any court orders and recommendations for batterers' treatment, and any other appropriate treatment (i.e., mental health and/or substance abuse treatment). These plans must be in place regardless of whether the adults in the family intend to stay together or separate.

B. Not Including Options that May Increase Danger

Case plans will not include actions that may increase danger to the non-offending parent/caregiver and her child. Restraining orders will not be mandated.

C. Separate Case Plans

All non-offending parents/caregivers and their children should have specific domestic violence Safety Plans developed with the domestic violence lead agency, as part of the larger DYFS case plan. The child will have a DYFS Safety Protection Plan developed by the Worker with the parents unless there is a court order restricting the offending parent's involvement. If appropriate, the Worker may include PALS or the domestic violence program child advocate staff and other supports.

Separate case plans must be prepared for the batterer and the non-offending parent/caregiver and her child. The batterer shall not have access to the non-offending parent's/caregiver's case plan.

D. Family Team Meetings

In domestic violence situations, special considerations are required for family team meetings. The batterer is not included in family team meetings with the non-offending parent/caregiver.

VIII. Available Community Services

A. Services for the Non-Offending Parent/Caregiver and the Child

Domestic violence services and community collaboration are essential to meet the needs of families where domestic violence and child abuse and/or neglect co-occur. As part of the DCF mission to ensure the safety, permanency and well-being of children and to support families, DCF is the primary funding source and oversight agency responsible for protective and supportive services for non-offending parents/caregivers and their children. DYFS prefers parents/caregivers engage in voluntary services.

DCF funds at least one domestic violence program in each county that provides core services, including 24 hour hotline and shelter services; specialized counseling; legal, financial and housing advocacy; children's services; community education; and community networking. Contact information for domestic violence programs, including culturally specific services, by county, can be accessed through: <http://www.njcbw.org>. Services are voluntary, confidential and free. See Appendix D: NJ Coalition for Battered Women Guide to Services (by County).

B. Domestic Violence Core Services

- 24-hour emergency response and shelter access
- Legal, financial and housing advocacy
- Counseling for victims and children
- Children's services
- Community networking
- Community education and awareness

C. PALS Programs for Children

See Section I. F PALS Program for Children
See Appendix E for a list of the PALS programs.

D. Domestic Violence Liaison Program

See Section I. F. Domestic Violence Liaison Program

E. Referrals for Domestic Violence Services

1. Processing the Referral

The safety, permanency and well-being of children are enhanced through the timely determination and accurate assessment of domestic violence as well as the implementation of appropriate safe interventions. **A written referral is required when a Domestic Violence Assessment, Safety Plans and/or Supportive Services are needed for the non-offending parent/caregiver and the child.** The preference is that referral for services is voluntary in keeping with the DCF Case Practice Protocol.

When processing the referral, it is preferred that the Worker obtains a signed DYFS Form 26-15, Authorization for Release of Information, from the non-offending parent/caregiver. Both documents are faxed to the domestic violence lead agency. The DYFS Worker assists the client in contacting the agency to initiate services.

2. Role of the Lead Domestic Violence Agency

Upon being contacted by the client, the domestic violence agency staff arranges to meet with the client, fully discusses confidentiality issues and then asks the clients to sign a Release of Information Consent Form authorizing the agency to communicate with the DYFS Worker. The domestic violence lead agency, working with the client, conducts the assessment, develops a domestic violence safety plan for the non-offending parent/caregiver and provides the services necessary for the protection of the non-offending parent/caregiver and the child and then forwards the appropriate documents to DYFS. DYFS Area Offices will work with their designated domestic violence liaisons.

3. Incorporating Services into the Case Plan

The DYFS Worker follows up on the referral and incorporates the service information and time frames into the DYFS Case Plan and assists in coordination.

4. Encouraging Direct Contact of Client with Lead Domestic Violence Agency

The Worker supports the non-offending parent/caregiver and encourages her to speak either in-person or by telephone with staff from the domestic violence lead agency. When attempting to steer the client toward the appropriate service, it is important to be aware of the dynamics of domestic violence.

5. Consultation Available for Worker

The non-offending parent/caregiver may be afraid or reluctant to obtain services. As a result, she may minimize or deny the existence of the problem and may be reticent to follow through on the referral. If met with this kind of response, the Worker consults a domestic violence expert for techniques on how to engage a victim of domestic violence.

6. Services for the Batterer

The DYFS Worker also may request a Domestic Violence Assessment and services for the batterer from an appropriate community-based treatment program. See XIV Appendices, Appendix D: Guide to Services.

7. Referrals for Services

When the family is in need of supportive services only, the DYFS Worker provides the client with information about the core services that are available through the local domestic violence lead agency and makes the referral.

8. Sources of Financial Assistance

If financial assistance is needed, the Worker determines that funds such as Temporary Assistance for Needy Families (TANF) or Victims of Crime Compensation Board funding are unavailable to meet the need, before using DYFS emergency funds, including PRS Emergency Funds or Flexible Funds.

IX. Case Closing

Additional case closing criteria for cases where child abuse and/or neglect co-occurs with domestic violence include:

- **Police Checks** – The Worker checks whether any domestic violence reports have been filed with the police.
- **Service Provider Checks** – The Worker checks whether the service providers are in agreement with the assessment that the threat of harm has been minimized for the child and non-offending parent/caregiver. The worker also checks whether the service providers are in agreement that the non-offending parent knows more ways to plan for their safety and knows more about community resources available.

X. Documentation

A. Recording Principles

When the Worker records information, he or she:

- Considers the safety and confidentiality of the non-offending parent/caregiver in the:
 - Electronic and paper case records
 - NJ SPIRIT Windows and forms
 - Other forms and documents
 - Documents the case records and agency forms in a manner that identifies any physical harm to the child sustained as a result of the domestic violence
 - Holds the batterer responsible for the harm
 - Describes the specific behaviors of the batterer that pose risks to the non-offending parent/caregiver and child
 - Identifies the resulting safety concerns and continued risk that the batterer creates for the family members
 - Documents the potential risk of retaliation and harm to the non-offending parent/caregiver and the child
- Avoids language that blames the non-offending parent/caregiver for the batterer's abusive behavior

B. Best Practice for Coding Domestic Violence

The non-offending parent/caregiver in a domestic violence allegation should rarely be coded as a perpetrator, only in certain circumstances. For a CPS allegation, the perpetrator is selected as the aggressor for the report. If the Screener is considering making the non-offending parent/caregiver a perpetrator, he or she must consult with a Casework Supervisor prior to doing so.

C. NJ SPIRIT Windows and Forms and Other DYFS Forms

1. Intake Window and DCF 1-1, Screening Summary

The Intake Window prefills DCF Form 1-1, Screening Summary. The Screener enters information in the "Stated Problem/Request" field in the Narrative Tab describing the circumstances of the domestic violence, any police response to the home, criminal history and information on restraining orders. During the Intake phase, the SCR Screener conducts a confirmed perpetrator search using the Specialized Search in NJ SPIRIT for all adults identified in the report.

2. Investigation Window and DCF 2-1, Investigation Summary

The Investigation Summary Tab of the Investigation Window prefills the narrative on the DCF 2-1, Investigation Summary. Enter domestic violence information into the "Documentation of Response" and "Summary of Conclusion" Group Boxes. Enter the following information as appropriate:

- Documentation of all interviews that were held separately from the batterer/perpetrator to ensure the safety of the child and non-offending parent/caregiver
- Documentation of collateral contacts (most importantly, the local police)
- Documentation of relevant observations of family interactions/behaviors, home environment, etc.
- Documentation of injuries, if any, observed by the worker or documented by medical professionals for the children and/or the non-offending parent/caregiver
- Description of any problems identified and documentation of services offered
- A notation of all accompanying documents relevant to the response (e.g., medical and police reports, domestic violence complaints, restraining orders)
- A notation of situations which present risk to the personal safety of DYFS staff

3. Investigation Window and Findings

Findings on the DCF 2-1, Investigation Summary, prefill from the "Findings" Group Box of the Investigation Summary Tab of the Investigation Window. The Worker completes a concise summary of the investigation, including the findings and assessment conclusions, the identity of the perpetrator and the evidence or basis for those findings/conclusions in this field. A statement that domestic violence is present or suspected in the family is recorded here.

4. Contact/Activity Notes Window and DYFS Form 26-52, Contact Sheet

The Worker completes the Contact/Activity Notes Window which prefills the DYFS Form 26-52, Contact Sheet. When completing domestic violence information on the Window, the Worker should clearly state that the batterer is responsible for the harm. He or she also identifies the resulting safety concerns and the continued risk that the batterer creates for the family members.

When a family is separated due to domestic violence, the Window and Contact Sheets should not contain the exact address or physical location of the non-offending parent/caregiver and the child in order to help to ensure their safety.

Note: If the record is used in court, the address of the shelter or temporary residence, if written, could become public, thereby creating a potentially dangerous situation for the non-offending parent/caregiver and the child.

5. Case Plan Windows and DYFS Forms 26-51, 26-81 and 26-87

The Case Plan Window and its Tabs and Pop-Ups prefill the DYFS Forms 26-51, Family Summary/Case Plan/Court Report In-Home, the DYFS Form 26-81, Family Summary/Case Plan/Court Report Out-of-Home, and the DYFS Form 26-87, Family Summary/Case Plan/Court Report Strength and Needs, Desired Outcomes and Specific Activities.

The information obtained from the Domestic Violence Assessment and Safety Plan that is completed by the domestic violence lead agency can serve as a source of information to assist the Worker in summarizing the family's functioning, the risk to the child, strengths and protective factors and the family and community resources that are available. It may include information, such as the nature and severity of past violence, the level of danger, and the support available in the community.

For the Non-Offending Parent/Caregiver and Child

When completing the Case Plan for the child and non-offending parent/caregiver, the following services and activities **may** be appropriate, depending on the circumstances of the case:

- Participate in a Domestic Violence Assessment
- Participate in the development of a Domestic Violence Safety Plan for herself
- Participate in the development of a Safety Protection Plan for the child
- Attend educational/counseling sessions at the local domestic violence agency
- Implement the recommendations and safety actions developed with the local domestic violence lead agency

For the Batterer

When completing the individualized Case Plan with a batterer, the following services and activities **may** be appropriate depending on the circumstances of the case:

- Attend an approved batterer assessment, intervention, and education program
- Comply with existing court orders, including parenting time
- Temporarily leave the home
- Stop interfering with the mother's efforts to parent the child safely
- Stop the abusive behavior including the verbal, emotional, psychological and physical abuse of all family members

XI. Conclusion

With these domestic violence case practice protocols in place, outcomes for children exposed to domestic violence can improve. The desired outcomes include:

- Safety, permanency and the well-being of children will be enhanced
- When possible, children will remain safely in the care of the non offending parent/caregiver
- Children will be protected from ongoing exposure to domestic violence

XII. Appendices

Appendix A: DCF Domestic Violence Policy IIA 3100

Appendix B: Prevention of Domestic Violence Act

1. What is the Legal Definition of Domestic Violence? (N.J.S.A. 2C:25-19.a.)

Domestic violence is defined as the occurrence of one or more of the following acts inflicted upon a person protected under this act by an adult or emancipated minor:

- Homicide
- Assault
- Terroristic Threats
- Kidnapping
- Criminal Restraint
- False Imprisonment
- Sexual Assault
- Lewdness
- Criminal Sexual Contact
- Criminal Mischief
- Burglary
- Criminal Trespass
- Harassment
- Stalking

2. Who is protected under the law? (N.J.S.A. 2C:25-19.d.)

- Any person who is 18 years of age or older or who is an emancipated minor¹ and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present or former household member;
Or
- Any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim has a child, or with whom the victim anticipates having a child in common (i.e., is pregnant);
Or
- Any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim has had a dating relationship.

Note: The defendant **MUST** be 18 years old or an emancipated minor when the alleged domestic violence occurred; if the defendant is a minor, juvenile laws apply. The Prevention of Domestic Violence Act applies to same sex relationships.

¹ A person who is under 18 years of age but who has been married, has entered military service, has a child or is pregnant or has been previously declared by a court or an administrative agency to be emancipated.

3. What Relief is Available under the Law? (N.J.S.A. 2C:25-29)

Civil Relief

The Prevention of Domestic Violence Act offers legal remedies to victims of domestic violence. Under the Act, a victim can petition the court to issue a restraining order. The most relevant forms of relief for victims with children include the following:

- The batterer can be ordered to leave the home and/or not have any contact with the victim, the victim's relatives and others identified as being at risk
- Temporary custody of the minor children can be awarded to the victim
- The batterer can be ordered to temporarily provide child or other financial support to the victim
- A risk evaluation can be performed to determine appropriate visitation (parenting time)
- The batterer's parenting time with the children can be restricted

Criminal Relief

In addition to or in lieu of civil relief, it is possible for the victim or law enforcement to file a criminal complaint on behalf of the victim. The Prevention of Domestic Violence Act requires that law enforcement must arrest when one or more of the following are present:

- A victim shows any sign of injury
- There is any violation of *N.J.S.A.2C:29-9*
- A warrant is in effect
- There is probable cause to believe that a weapon has been involved in the commission of an act of domestic violence

In all mandatory arrest situations law enforcement must sign the criminal complaint.

In situations where DYFS intervention is necessary it may be appropriate to conference the case with the DYFS Deputy Attorney General (DAG) to develop a strategy for DYFS to initiate legal intervention on behalf of the victim and children.

4. Child Custody

In domestic violence matters before the court, the primary consideration in an award of custody made by the court is "the best interests of the child." As stated in the Prevention of Domestic Violence Act regarding a restraining order and a temporary award of custody: *The court shall presume that the best interests of the child are served by an award of custody to the non-abusive parent (N.J.S.A. 2C:25-29b (11)).*

In making an award of custody, the court must consider, but is not limited to, certain factors. The factors to be considered are found in *N.J.S.A. 9:2-4* and are as follows:

- The parents' ability to agree, communicate and cooperate in matters relating to the child;
- The parents' willingness to accept custody and any history of unwillingness to allow parenting time not based on substantiated abuse;
- The interaction and relationship of the child with his/her parents and siblings;
- 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 preference of the child, when of sufficient age and capacity, to reason so as to form an intelligent decision;

- The stability of the home environment offered;
- The quality and continuity of the child’s education;
- The fitness of the parents;
- The geographical proximity of the parents’ homes;
- The extent and quality of the time spent with the child prior to or subsequent to the separation;
- The parents’ employment responsibilities; and
- The age and number of the children.

N.J.S.A. 9:2-4.1 also provides that any person convicted of sexual assault or sexual contact shall not be awarded the custody of or visitation rights to any minor child, except upon a showing by clear and convincing evidence that it is in “the best interest of the child” for custody or visitation rights to be awarded.

According to the law, a parent shall not be deemed unfit unless the parent’s conduct has a substantial adverse effect on the child.

5. Parenting Time/Visitation

Pursuant to the Prevention of Domestic Violence Act, a plaintiff/victim in a domestic violence matter may request that an investigation or evaluation to assess risk of harm to the child be conducted prior to the court's issuance of an order for visitation between the defendant/batterer and the child. When this request is made as a desired form of relief, the court must order the assessment unless it finds the request to be arbitrary, unreasonable, or capricious.

The assessment is conducted by either Family Division Case Management (an intake unit within Family Court) or another unit or agency that has been designated by the Presiding Judge of the Family Court. An assessment tool is used to determine whether the defendant's access to the child could pose a threat to the child's safety and well-being.

Because of the importance of parenting time to the non-custodial parent and the child, the court seriously considers anything that interferes with that time. In fact, if one parent removes a child from New Jersey without the permission of the other parent and/or a valid court order, the party removing the child may be arrested.

If a parent wants to take a child out of New Jersey permanently, that parent needs the permission of the other parent, preferably in writing and/or a valid court order permitting removal. If the non-custodial parent’s consent is not obtainable, the parent seeking removal must file an application with the court for permission to remove the child.

Appendix C: Shelters for Victims of Domestic Violence Act

Appendix D: New Jersey Coalition for Battered Women Guide to Services (by County)

Appendix E: PALS Programs

Appendix F: Allegation Based System